



DISTRIBUTION DATE: September 4, 2020


MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: Susan E. Manheimer
Chief of Police

SUBJECT: 2018 and 2019 OPD FBI JTTF
Annual Reports

DATE: August 31, 2020

City Administrator 
Approval

Date: **Sep 4, 2020**

EXECUTIVE SUMMARY

OPD partners with – and participates in – several local, state, and federal law enforcement agency task forces. A City ordinance requires that departments partnering with federal agencies must do so in a manner consistent with local and state law requirements and bring an annual report to the Privacy Advisory Commission (PAC) and City Council on the task force activities.

The Federal Bureau of Investigation (FBI) Joint Terrorism Task Force (JTTF) was developed to share information related to potential terrorist attacks with local police agencies. Attached to this cover memo are the 2018 and 2019 OPD FBI JTTF annual reports. These reports summarize the information and cases in which the OPD-assigned Task Force Officer participated with the FBI.

INFORMATION

OPD partners with – and participates in – several local, state, and federal law enforcement agencies. The Federal Bureau of Investigation (FBI) created local Joint Terrorism Task Forces (JTTF) in the advent of the September 11, 2011 (9/11) terrorist attacks. The FBI has developed local JTTFs as an information hub for sharing sensitive information related to potential terrorist attacks. The OPD-JTTF Memorandum of Understanding (MOU) allows OPD personnel with FBI Top Secret/Sensitive Compartmented Information Security Clearance to participate in the JTTF to support anti-terrorism investigations related to the City of Oakland.

The OPD JTTF MOU allows OPD and the OPD Task Force Officer to participate in informational briefings at the local San Francisco and Oakland FBI offices, and have access to relevant information.

Oversight of OPD Partnerships with Federal Agencies

Ordinance No. 13457 C.M.S., adopted by City Council on June 29, 2017, adds Chapter 9.72.010 to the Oakland Municipal Code (OMC). OMC 9.72.010 “City Participation in Federal Law Enforcement Activities,” requires that:

- City departments such as OPD may assist federal agencies, “only in a manner that is fully consistent with the laws of the State of California, including but not limited to the inalienable right to privacy guaranteed by Article 1, Section 1 of the California Constitution, as well as the laws and policies of the City of Oakland, including but not limited to Police Department policies, procedures, and orders;”
- City departments must submit to the Privacy Advisory Commission (PAC) any proposed Memorandum of Understanding or other written agreement, contract or arrangement (collectively, "MOU") for discussion and public comment before execution of any agreement; and
- On January 31st of each year, the Chief of Police shall provide an annual report to the PAC and City Council regarding “appropriate public information” on the Police Department's work with the federal law enforcement agency.

OPD first brought a version of the 2018 OPD FBI JTTF Annual Report to the PAC at their February 2019 meeting (along with other OPD Federal Agency MOU reports). OPD introduced new versions of the 2018 JTTF Annual Report to the PAC many times in 2019. Commissioners wanted additional information regarding:

- The number and types of cases assigned to the OPD JTTF officer;
- The number of assessments and/or voluntary interviews opened;
- The Types of training completed by the OPD JTTF officer (especially to ensure compliance with Oakland and California law);
- The frequency with which OPD JTTF officer briefs OPD supervisor on cases;
- Any actual violations of City or State Laws; and
- Whether the OPD JTTF Officer submits any suspicious activity reports (SAR) to the FBI.

OPD revised the report accordingly to provide additional information which could be appropriately shared; OPD consulted with the Office of the City Attorney on all report modifications).

The PAC accepted the 2018 Annual Report (***Attachment A*** to this memorandum) at their July 2019 meeting. The PAC made a motion to receive the report and forward to the City Council. Staff waited to bring this report to Council at the time as the PAC was still reviewing the actual MOU throughout the summer and fall of 2019 – OPD and FBI personnel continued to discuss the MOU language and the underlying policies related to the JTTF MOU.

OPD first presented the 2019 OPD FBI JTTF Annual Report (based on the 2018 template) to the PAC at the June 4, 2020 meeting. The PAC asked that staff provide additional information about examples provided in the report. The PAC Commissioners asked that, where appropriate, ethnicity/race information be included with the cases. Staff revised the 2019 report (see

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Attachment B) and presented to the PAC at their July 2, 2020 meeting. The PAC voted to receive the report and forward to the City Council.

Respectfully submitted,



SUSAN E. MANHEIMER
Interim Chief of Police,
Oakland Police Department

For questions, please contact Roland Holmgren, OPD Deputy Chief of Police, Bureau of Field Operations, at (510) 238-3430.

Attachments (2)

A: 2018 OPD FBI JTTF Annual Report

B: 2019 OPD FBI JTTF Annual Report



ATTACHMENT A

MEMORANDUM

TO: Privacy Advisory Commission

FROM: Roland Holmgren,
Deputy Chief of Police

SUBJECT: OPD - FBI 2018 Joint Terrorism
Taskforce (JTTF) Annual Report

DATE: June 28, 2019

EXECUTIVE SUMMARY

Ordinance No. 13457 C.M.S. approved by the City Council on October 3, 2017, adds Chapter 9.72.010 to the City of Oakland Municipal Code (OMC) concerning "Law Enforcement Surveillance Operations." OMC 9.72.010 requires that, among other requirements, that by January 31 of each year, the Chief of Police shall provide to the Privacy Advisory Commission (PAC) and City Council, a public report with appropriate public information on the Police Department's work with the Federal Bureau of Investigation (FBI) Joint Terrorism Task Force (JTTF) or other federal law enforcement agency task force in the prior calendar year. The Oakland Police Department (OPD) has already introduced a draft 2018 FBI JTTF Taskforce annual report to the PAC at its February meeting; this report provides updated information for 2018.

STAFFING, EQUIPMENT AND FUNDING

As of January 1, 2018, (1) one employee (sworn OPD officer) was assigned to the FBI JTTF. The officer was assigned to work a standard regular work week of (40) forty hours per week. This officer is assigned to OPD's Intelligence Unit and has a joint duty of also participating and assisting with the FBI JTTF. The officer's duties and reporting responsibilities depend upon whether there is any active counter-terrorism investigation as well as the current needs and priorities of the OPD Intelligence Unit.

The position is compensated as a regular OPD officer; the FBI does not compensate OPD for this position's salary. The officer position works regular hours: 40 hours per week; 1,920 hours per year (approximately). Any overtime (OT) hours specific to taskforce operations are paid by the FBI - in 2018, the OPD JTTF did not work any OT hours related to JTTF duties.

In 2018, the JTTF Officer was on special loan from the Intelligence Unit and assigned to the Bureau of Services for all of 2018; this Officer only participated minimally in JTTF operations (approximately 1-2 times a month).

OTHER RESOURCES PROVIDED

The FBI provided a vehicle, covered all fuel expenditures and allowed access to the FBI JTTF office space and access to FBI data systems. OPD provides the mobile phone used by the Task Force (TF) officer. The officer is not provided with any FBI surveillance equipment.

CASES ASSIGNED TO THE OPD JTTF OFFICER

The JTTF Officer assists the FBI on counter-terrorism cases. In 2018, the OPD JTTF Officer was assigned on special loan to OPD's Bureau of Services (ongoing), and was not assigned to any JTTF Task Force cases as a lead investigator; the limited assistance was due to the OPD JTTF Officer being on special loan away from the JTTF for this year.

The JTTF Task Force Officer was assigned zero (0) cases as lead investigator in 2018. However, the JTTF Officer was assigned to assist on (1) one case, which gained national attention. This was an October 2018 pipe bomb investigation in which Bay Area politicians and members of the media received pipe bombs in the mail. OPD was concerned that local figures in Oakland were also targeted. The OPD JTTF Officer coordinated with the Task Force on investigations (the Task Force determined that no Oakland based officials were targeted, and this information was relayed to City officials)¹

A past-year example provides context to the nature of OPD's FBI JTTF Task Force. This example is provided as 2018 is the first year for OPD to provide annual reports to the PAC. In 2016 the Task Force investigated the case leading to the arrest of Amer Alhaggagi. The investigation revealed that Alhaggagi planned to: 1) set fires in the hills of Berkeley; 2) strategically place backpack bombs in various public areas around downtown Oakland; 3) sell cocaine laced with rat poison at bars and clubs in Oakland and Berkeley; and 4) detonate a car bomb at a gay nightclub in San Francisco. The FBI learned that in July of 2016, Alhaggagi had applied to the Oakland Police Department for a position as a police Officer. The Oakland JTTF Officer assisted the FBI in identifying Alhaggagi as the subject. Ultimately, the FBI was able to safely arrest him. Alhaggagi was sentenced to 15.5 years' imprisonment because of his conviction on the above-mentioned criminal activity.

"Duty to Warn" is identified as the "requirement to warn U.S. and non-U.S persons of impending threats of intentional killing, serious bodily injury, or kidnapping".² The JTTF Officer participated in zero (0) duty to warn cases.

There were zero (0) cases in 2018 where OPD declined to participate after FBI request. The FBI knows that OPD task force officers must comply with all Oakland laws and policies. Furthermore, the FBI commonly works with different jurisdictions and understands that taskforces must collaborate with the particular polices and laws of those jurisdictions.

UNDERCOVER OPERATIONS AND INTERVIEWS

In 2018, the OPD JTTF Officer did not conduct any undercover operations or interviews (JTTF interviews are normally conducted by FBI Agents) - zero (0) were conducted.

In 2018, the OPD JTTF Officer did not take part in any interviews (voluntary or involuntary) - zero (0) were conducted.

In 2018, the OPD JTTF officer did not conduct any assessments - zero (0) assessments conducted. Generally, unless someone were to come to the OPD to report a threat, all assessments begin with

¹ This case occurred before 2018 (the year of this annual report). OPD is including this past information because 2018 is the first reporting year; past information is provided for context as to relevant work related to the JTTF TF.

² FBI Duty to Warn – Intelligence Community Directive 191: <https://fas.org/irp/dni/icd/icd-191.pdf>

the FBI. Procedurally, FBI is notified and an assessment is opened and FBI will then forward the assessment to specific agents.

The OPD JTTF officer does not manage any informant relationships. In 2018, there were zero (0) informant's managed by OPD JTTF. Furthermore, the Intelligence Unit is the Informant Program Coordinator for all OPD informants. A file check was conducted on the JTTF Officer and there were zero (0) informant relationships related to the JTTF³.

There were no situations in 2018 where the officer conducted undercover operations or managed informants. There were no requests from outside agencies (e.g. Immigration and Customs Enforcement or "ICE") for records or data of OPD. There were no cases where the Task Force Officer was involved or aware of asking an individual's U.S. Person (residency) status. Furthermore, it is OPD Policy that OPD shall not inquire about a citizen's residency status

The FBI is aware of requirements mandated of OPD and its protocols for undercover operations and interviews; the Task Force Officer was always held responsible for following all sworn officer policies and standards.

TRAINING AND COMPLIANCE

The OPD JTTF Officer follows all OPD policies and receives several police trainings, including but not limited to: continual professional training, procedural justice, and annual firearms training. The Officer has also reviewed all provisions of the JTTF MOU. The JTTF Officer as well as supervisor are held responsible by OPD for compliance with all applicable Oakland and California laws. The most recent list of trainings attended are as follows:

27-Jun-18	#29501-FIREARMS-Force Options-5, 8, 10HR
28-Jun-18	Criminal Investigations/Constitutional Law Update
26-Jun-18	Racial Profiling Update-2HR
15-Jun-18	Procedural Justice II Training-4.5HR
06-Apr-18	In-Service Firearms Qualif-CPOA-10 or 8HR
25-May-17	Criminal Invest/4th-5th Amendment Issues/Use of Force/Stop Data-2, 1HR

The OPD JTTF Officer supervisor (Intel Sergeant) conducts mandatory bi-weekly meetings with the officer. Daily and weekly meetings are also held when critical incidents occur.

ACTUAL AND POTENTIAL VIOLATIONS OF LOCAL/STATE LAW

The JTTF OPD Officer had no violations of local, California, or Federal law. OPD Command consults with the Office of the City Attorney to ensure that all polices conform with State and Federal laws. Furthermore, a file check was conducted on the OPD JTTF Officer's complaint history in 2018 and there were zero (0) zero complaints against the officer.

³ Identities of any informant would never be released to the public as such information is may be dangerous for the life of the informant.

SUSPICIOUS ACTIVITY REPORTING (SARs) and NORTHERN CALIFORNIA REGIONAL INTELLIGENCE CENTER (NCRIC)

OPD submits Suspicious Activity Reports (SARs) to the Northern California Regional Intelligence Center (NCRIC). These reports contain information regarding activity, such as, but not limited to: narcotics, cyber-attacks, sabotage, terrorism threats, officer safety, and human trafficking. NCRIC provides a secure online portal where police agencies can provide this information. NCRIC has shared with OPD that providing false or misleading information to NCRIC is a violation of Federal Law and may be subject to prosecution under Title 18 USC 1001. The JTTF is a recipient of SAR information. The OPD JTTF Officer submitted zero SARs to NCRIC during the 2018 calendar year. It is unknown how many SAR's OPD Officers received during 2018 as there is no current tracking system.

COMMAND STRUCTURE FOR OPD JTTF OFFICER

The OPD JTTF Officer works under the command structure of OPD; the OPD JTTF Officer reports directly to the OPD Intelligence Unit Supervisor (Sergeant). The Officer also coordinates with the FBI Supervisor, who is also serves as a Counterterrorism Assistant Agent.



ATTACHMENT B

MEMORANDUM

TO: Privacy Advisory Commission

FROM: Roland Holmgren
Deputy Chief of Police

SUBJECT: OPD - FBI 2019 Joint Terrorism
Taskforce (JTTF) Annual Report

DATE: May 20, 2020

EXECUTIVE SUMMARY

Ordinance No. 13457 C.M.S. approved by the City Council on October 3, 2017, adds Chapter 9.72.010 to the City of Oakland Municipal Code (OMC) concerning "Law Enforcement Surveillance Operations." OMC 9.72.010 requires that, among other requirements, that by January 31 of each year, the Chief of Police shall provide to the Privacy Advisory Commission (PAC) and City Council, a public report with appropriate public information on the Police Department's work with the Federal Bureau of Investigation (FBI) Joint Terrorism Task Force (JTTF) or other federal law enforcement agency task force in the prior calendar year.

STAFFING, EQUIPMENT AND FUNDING

As of January 1, 2019, one (1) employee (sworn OPD officer) was assigned to the FBI JTTF. The officer was assigned to work a standard regular work week of (40) forty hours per week. This officer is assigned to OPD's Intelligence Unit and has a joint duty of also participating and assisting with the FBI JTTF. The officer's duties and reporting responsibilities depend upon whether there is any active counter-terrorism investigation as well as the current needs and priorities of the OPD Intelligence Unit.

The position is compensated as a regular OPD officer; the FBI does not compensate OPD for this position's salary. The officer position works regular hours: 40 hours per week; 1,920 hours per year (approximately). Any overtime (OT) hours specific to taskforce operations are paid by the FBI - in 2019, the OPD JTTF Officer did not work any OT hours related to JTTF duties.

The JTTF-assigned officer was on special loan from the Intelligence Unit for most of 2019, assisting with upgrades to OPD's Bureau of Services Evidence Unit; the officer participated in monthly meetings with the JTTF during this time and actively assisted with investigations when requested. The upgrades to the OPD evidence unit are now complete enough that the officer can support both the OPD Intelligence Unit and JTTF information development (see **Cases Assigned to the OPD JTTF Officer** Section below), in addition to attending regular JTTF meetings.

OTHER RESOURCES PROVIDED

The FBI provided a vehicle, covered all fuel expenditures, and allowed access to the FBI JTTF office space and access to FBI data systems. OPD provides the mobile phone used by the Task Force (TF) Officer. The officer is not provided with any FBI surveillance equipment.

CASES ASSIGNED TO THE OPD JTTF OFFICER

The JTTF Officer assists the FBI on counter-terrorism cases. The OPD JTTF-assigned officer was assigned on special loan to OPD's Bureau of Services for the evidence unit for project support for most of 2019 as described above. Therefore, the officer was not assigned to any JTTF cases as a lead investigator; the JTTF Task Force Officer was assigned zero (0) cases as lead investigator in 2019. In 2019, there were five cases where the officer assisted the FBI as a secondary officer in a support role, primarily conducting research.

The following cases outline where the OPD JTTF-assigned officer assisted with investigations:

1. In February 2019, the FBI requested OPD assistance in identifying a location and suspect related to homicide threat. The OPD JTTF Officer utilized FBI information, assisted the FBI in eliminating several locations, helped connect individuals, and identified the exact location as well as the key suspect. This information allowed the FBI to issue a search warrant on the residence, and a suspect was arrested. The victim, a mother of two children, was unharmed and safely relocated with her children. The FBI, with the assistance of the JTTF Officer, very possibly saved a mother and her children from being murdered.
 - Suspect(s): One, Male Black
 - Case Status: Open; Pending Trial
2. On June 25, 2019, the FBI notified the City of Alameda of a suspect, who had an active felony warrant for bomb threats to several east coast U.S. city police departments. The FBI believed there was a potential bomb threat to the City of Alameda based on the known information, so the JTTF Officer notified the Alameda Police Department. Separately, the suspect drove into the City of Oakland and was involved in a road rage incident in the 1400 block of Oak St. The suspect pursued the victim, who was riding on a motorcycle, and intentionally ran the motorcyclist over several times. The suspect was apprehended. The JTTF Officer responded to the crime scene and collaborated with outside agencies. No interviews were conducted by the JTTF Officer.
 - Suspect(s): One, Male White
 - Case Status: Open; Pending Trial
3. On June 27, 2019, suspects, armed with rifles, robbed a Loomis Armored Trunk in front of Wells Fargo in the City of Oakland, stealing approximately \$500,000. The OPD JTTF Officer utilized OPD information to identify three suspects; Several search warrants were served, which led to the arrests of the suspects as well as significant evidence recovery.
 - Suspect(s): Three, Male Black
 - Case Status: Open; Pending Trial
4. Open investigation and will likely appear in 2020 report to PAC/City Council
5. Open investigation and will likely appear in 2020 report to PAC/City Council

The JTTF Officer participated in **zero (0) duty to warn cases**, where "Duty to Warn" is identified as the "requirement to warn U.S. and non - U.S persons of impending threats of intentional killing, serious bodily injury, or kidnapping".¹

There were zero (0) cases in 2019 where OPD declined to participate after FBI request. The FBI knows that OPD task force officers must comply with all Oakland laws and policies. Furthermore, the FBI commonly works with different jurisdictions and understands that taskforces must collaborate with the particular polices and laws of those jurisdictions.

¹ FBI Duty to Warn – Intelligence Community Directive 191: <https://fas.org/irp/dni/icd/icd-191.pdf>

UNDERCOVER OPERATIONS AND INTERVIEWS

In 2019, the OPD JTTF Officer did **not participate in any joint FBI-OPD undercover operations or interviews** (JTTF interviews are normally conducted by FBI Agents); zero (0) undercover operations were conducted by the OPD JTTF-assigned officer. However, the officer did support informational gathering on behalf of JTTF investigations. The OPD officer only conducted information gathering, and did not work directly with FBI personnel on any actual operations.

In 2019, the OPD JTTF Officer did not take part in any interviews (voluntary or involuntary) - zero (0) were conducted.

In 2019, the OPD JTTF Officer did not conduct any assessments - zero (0) assessments conducted. Generally, unless someone were to come to the OPD to report a threat, all assessments begin with the FBI. Procedurally, FBI is notified, and an assessment is opened and FBI will then forward the assessment to specific agents.

The OPD JTTF Officer does not manage any informant relationships. In 2019, **there were zero (0) informant's managed by OPD JTTF Officer**. Furthermore, the Intelligence Unit Sergeant is the Informant Program Coordinator for all OPD informants. A file check was conducted on the JTTF Officer and there were zero (0) informant relationships related to the JTTF².

In 2019, there were no requests from outside agencies (e.g. Immigration and Customs Enforcement or "ICE") for records or data of OPD. There were no cases where the Task Force Officer was involved or aware of asking an individual's U.S. Person (residency) status. Furthermore, it is OPD Policy that OPD shall not inquire about a citizen's residency status.

The FBI is aware of requirements mandated of OPD and its protocols for undercover operations and interviews; the Task Force Officer was always held responsible for following all sworn officer policies and standards.

TRAINING AND COMPLIANCE

The OPD JTTF Officer follows all OPD policies and receives several police trainings, including but not limited to: continual professional training, procedural justice, and annual firearms training. The Officer has also reviewed all provisions of the JTTF MOU. The JTTF Officer as well as supervisor are held responsible by OPD for compliance with all applicable Oakland and California laws. The most recent list of trainings attended are as follows:

Date	Training Type
September 16, 2019	Criminal Investigations and Constitutional Law Update
September 17, 2019	Racial Profiling Update
September 18, 2019	Annual Firearms / Force Options Training
Ongoing	Virtual FBI training

² Identities of any informant would never be released to the public as such information is may be dangerous for the life of the informant.

The OPD JTTF Officer supervisor (Intel Sergeant) conducts mandatory bi-weekly meetings with the officer. Daily and weekly meetings are also held when critical incidents occur. Furthermore, the Intel Sergeant regularly works with the JTTF Officer in the same building/office located at the Police Administration Building (PAB). Additionally, the Sergeant supervising the officer in 2019 had U.S. Secret Service clearance and could review the work of the OPD JTTF Officer.

ACTUAL AND POTENTIAL VIOLATIONS OF LOCAL/STATE LAW

The JTTF OPD Officer had no violations of local, California, or Federal law. OPD Command consults with the Office of the City Attorney to ensure that all polices conform with State and Federal laws. Furthermore, a file check was conducted on the OPD JTTF Officer's complaint history in 2019 and there were zero (0) zero complaints against the Officer.

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COMMAND STRUCTURE FOR OPD JTTF OFFICER

The OPD JTTF Officer works under the command structure of OPD; the OPD JTTF Officer reports directly to the OPD Intelligence Unit Supervisor (Sergeant). The Officer also coordinates with the FBI Supervisor, who is also serves as a Counterterrorism Assistant Agent.