

OFFICE OF THE MAYOR
SAN FRANCISCO



LONDON N. BREED
MAYOR

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,

A handwritten signature in black ink, appearing to read "London Breed".

London N. Breed
Mayor

A handwritten signature in black ink, appearing to read "William Scott".

William Scott
Chief, Police Department

1 DR. CARLTON B. GOODLETT PLACE, ROOM 200
SAN FRANCISCO, CALIFORNIA 94102-4681
TELEPHONE: (415) 554-6141

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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.
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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.

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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 JTF. 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 JTF 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 JTF matters: President Hirsch. It is beneficial to have a designated commissioner as a point of contact for all parties interested in this issue.					
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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.
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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.
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Joint Terrorism Task Force: Balancing Public Safety with Civil Rights [July 17, 2019]	F7	Presently, the PC does not have a representative for JTF 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 JTF 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.					
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.

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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 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 incorporates 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.
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 finding	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")..."

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