



## ***Safe San Francisco Civil Rights Ordinance: Preventing Local Involvement in FBI Intelligence Abuses***

### Understanding Local and State Protections

California and San Francisco have a strong history of safeguarding our fundamental civil rights and liberties --

- California's state constitution guarantees an inalienable **right to privacy** and bans intrusive surveillance and intelligence practices currently allowed by federal standards governing the FBI .
- Local policies include SFPD Department General Order (DGO) 8.10, which **requires reasonable suspicion** of serious criminal activity, written authorization by the Police Chief and civilian oversight for any intelligence gathering involving First Amendment activities.
- SFPD DGO 5.17 provides broader **protection against biased policing** practices than weaker FBI standards
- The **City of Refuge Ordinance** prohibits the SFPD from assisting federal immigration enforcement.
- The city charter requires all SFPD activities be subject to **local civilian control and oversight**.

### The SFPD-FBI Joint Terrorism Task Force Agreement

Since 2007, these strong local and state protections have been undermined by a **previously-secret agreement with the FBI** -- finally disclosed in April 2011 -- governing the SFPD's participation in the FBI's Joint Terrorism Task Force (JTTF). This agreement is still in place and --

- States that SFPD officers in the JTTF operate only under federal guidelines which allow **surveillance without suspicion** and **intelligence gathering without cause**;
- **Prohibits** direct supervisory **control and local civilian oversight** of SFPD activity with the JTTF; and,
- Is **contrary to prior arrangements** that guaranteed the FBI could not block local standards and oversight from being applied to San Francisco's own police officers.

### The Inadequate Local Response. . . So Far

In 2010, the **Human Rights Commission** held an extensive hearing documenting community concerns over law enforcement profiling and surveillance activities. In 2011, the Commission published a report -- later endorsed by the Board of Supervisors -- calling for greater transparency over the SFPD's involvement with the FBI and for actions to ensure local officers are being held to local standards and oversight in their work with the FBI. In response --

- The Police Commission held a hearing on these concerns, publicly claimed they wanted SFPD officers to follow the stronger state and local civil rights standards but -- over the strong and overwhelming objections of public testimony -- **left in place the previously-secret agreement with the FBI** that blocks that from occurring.
- The Police Chief made similar statements in support of local standards, issued a directive claiming generally that local policies should be followed but also leaving in place the agreement with the FBI **making it impossible for this directive to actually be enforced**.

### A Solution that Works: The Portland Model

Through local legislation endorsed by the federal government and enacted in 2011, the City of Portland, Oregon, has demonstrated that local police agencies can work with the FBI JTTF **without sacrificing local control, local values and local oversight**. By placing its JTTF arrangements squarely under local law rather than under a restrictive agreement written by the FBI, Portland's model --

- **Protects both public safety and civil rights**;
- **Requires civilian oversight**; and,
- **Provides an appropriate level of transparency**.

### The Proposed Ordinance

Like in Portland, the proposed *Safe San Francisco Civil Rights Ordinance* would **put the SFPD's counterterrorism work back under the control of San Franciscans** rather than under an agreement whose terms were dictated unilaterally by FBI Headquarters. The *Ordinance* will --

- Codify **policy protections against abusive intelligence practices** and apply them to the SFPD's FBI JTTF work;
- Require the Chief of Police to **authorize in writing** any intelligence gathering that involves political or religious beliefs, associations or expression;
- **Prevent the FBI from blocking local supervisory control and civilian oversight** of SFPD officers' JTTF work;
- **Hold SFPD officers accountable to state constitutional privacy standards** even if they are deputized as federal agents working with the FBI's JTTF; and,
- **Ban secret agreements** with the FBI or other federal agencies governing SFPD counterterrorism work.