

DISCUSSION ON BILL 92, CD1 (2025), AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE FEDERAL BUREAU OF INVESTIGATION FOR A JOINT TERRORISM TASK FORCE (DRIP-9(7))

Context: The full Council voted initially to approve the FBI-JTTF IGA. Later the Council voted to send the FBI-JTTF contract back to the BFED Committee to review its approval after it realized that Budget had failed to analyze the contract in the context of Trump's mission for the FBI-JTTF. The BFED Report had also placed several falsehoods about the contract on the record that need to be fixed.

What are the Legal Duties of the Council on Intergovernmental Agreements?

STATE LAW

Hawaii Revised Statutes Title 6. County Organization and Administration. 46. General Provisions

46-7 Agreements with federal government; use of funds.

Universal Citation: HI Rev Stat § 46-7 (2024)

The governing body or the planning commission or department of the various counties, **with the consent of the council**, may enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with the federal government or any other public body or bodies respecting action to be taken pursuant to any of the powers granted to it by law and furnish, expend, and receive any funds or other assistance in connection with projects being or to be undertaken pursuant to the powers. [L 1957, c 139, §1; Supp, §138-11.5; HRS §46-7]

- Does Council Give Blanket **Consent** Under Certain Conditions? Debateable
- How Does the Council **Decide** If IGA Meets Those Conditions? As a Council

COUNTY CODE

Chapter 2.20 - INTERGOVERNMENTAL AGREEMENTS

2.20.010 – Definitions...

B."Obligation" means **any** commitment, promise, or similar representation contained in an intergovernmental agreement that the county or any agency thereof will provide funds, documents, statistical data **or any professional or technical service**, or establish any rules, regulations, or other law within the county to any other governmental or quasi-governmental agency.

(Ord. 902 § 1 (part), 1978: prior code § 5-8.1)

2.20.020 - Council approval.

Unless authorized by ordinance, the mayor shall not enter into any intergovernmental agreement or any amendment thereto which **places a financial obligation upon the county** or any department or agency thereof.

- Has the Council engaged in public fact-finding on the Intergovernmental Agreement (IGA) and on whether it contains a financial obligation on the County? **NO**, Not Yet
- Has the Council voted to declare this IGA places no financial obligation on the County? **NO**

Conclusion: Until the Council publicly examines the IGA for a financial obligation placed on the County and votes on that finding, it is not yet meeting it's statutory responsibility to consent.

Financial Obligation in the IGA

Page 2 of IGA btw MPD and FBI-JTTF: “SUPERVISION AND CONTROL. **All JTTF personnel, once on-board, will be under the supervision of the FBI** while working on the JTTF to which they are assigned.”

Page 8 “SALARY/OVERTIME COMPENSATION/FUNDING... **The Participating Agency shall be responsible for the pay, overtime, leave ... relating to its employees detailed to an FBI JTTF.**”

Page 3: “STAFFING COMMITMENT AND RESPONSIBILITIES. In light of the significant cost and effort in on-boarding new JTTF personnel, as well as the need for continuity to successfully combat national security, criminal, and cyber threats, attacks, and intrusions, the

Participating Agency agrees to provide its personnel to the FBI JTTF for a period of at least two (2) years.”

Page 5: “The **Participating Agency will not knowingly act unilaterally on any matter affecting the JTTF.**”

BFED Report to Council on Bill 92 nonetheless: “**The proposed agreement would commit the County to provide personnel whose salaries, benefits, and agency-required training remain County costs**”

Exhibit "1"

UNCLASSIFIED//FOUO

HONOLULU DIVISION

JOINT TERRORISM TASK FORCE (JTTF)

Standard Memorandum of Understanding

Between

THE FEDERAL BUREAU OF INVESTIGATION

And

MAUI POLICE DEPARTMENT

(the "Participating Agency")

No IGA sections establish any MPD supervision or operational control in the JTTF Chain of Command. Many more IGA sections prohibit the MPD from Chain of Command and operational control among other restrictions on MPD activity. The County is paying our taxdollars to JTTF staff but the County has no control and is locked into that financial obligation for 2 years. The contract establishes a one-sided relationship between the master FBI-JTTF and the servant MPD. It is not collaborative in decision-making. Going back to the County code, the County is financially obligated to pay for professional and technical services (MPD officers in the JTTF) over which the FBI-JTTF is in full control by contract.

Council Budget Needs to Correct Its Record With a Proper Fact-finding Hearing on the Legally Binding IGA Itself, Not Irrelevant Past Practices or Promises regarding Supervision

BFED Report to Council on Bill 92 authored by Budget Chair Sugimura says: MPD “emphasized that the Department would retain supervisory responsibility over assigned County JTTF personnel and the discretion to decline participation in any JTTF action.” Upon this False finding, the BFED recommended passing the Bill 92 IGA with the FBI-JTTF. This should be fixed in the next hearing.

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The Deputy Chief added that the County's participation enhances coordination with Federal authorities, helps the County detect and prevent threats, and provides additional training and resources to the Department. He emphasized that the Department would retain supervisory responsibility over assigned County JTTF personnel and the discretion to decline participation in any JTTF action.

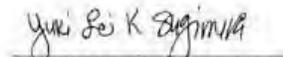
Your Committee expressed concern about the potential effect of

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This report is submitted in accordance with Rule 3 of the Rules of the Council.



YUKI LEI K. SUGIMURA, Chair

Not in the IGA are also

- **Limits on number of MPD officers assigned** to the JTTF and limits on the JTTF implementing mandatory priority on call status of MPD staff in the JTTF. See IGA page 3.
- **Minimum percentage levels of FTE** of an officer position assigned to the JTTF

Why does this matter? The County is taking great risk that a hypothetical un-elected and authoritarian Trump-fan Police Chief permits the FBI to deputize the entire MPD staff, detailed to the JTTF at 5% for each FTE. When the JTTF declares an emergency at their discretion, the JTTF can mandate the entire MPD to be under JTTF command. Do we want the risk of one person standing between Trump and his take over of the MPD, a \$83M County Department? Council needs to fact-find on reasonable limits and require contracts to be negotiated with safeguards to Trump's take over of MPD and our civil liberties.

Why Is this IGA Important to the County and Us, its residents?

- JTTF is directed by Trump's **NSPM-7** which labels dissenters as **“domestic terrorists”** and dictates JTTF agents to make their top priority to infiltrate, disrupt, and dismantle local groups and activists that have a different view of sovereignty, identity, culture, family, gender, patriotism, religion, morality, and economy than his MAGA vision. Trump controls the definition of terrorism.
- JTTF is led and composed of **ICE agents** among other Trump Police State agents assigned to the violent raids and military occupations of civilian spaces. It is strictly a command structure under Trump, Commander-in-Chief.
- The JTTF IGA explicitly **gags the County's** free speech, ability to investigate and document independently crime and federal abuse, define terrorism, know about the MAGA indoctrination of MPD officers under JTTF controlled training, etc. See pages 3, 4-7

Council Record Also Needs Fixing In These Areas

Budget Committee Chair's Report to Council on Bill 92 page 1: **Falsely claims** that the JTTF "does not coordinate directly with the U.S. Immigration and Customs Enforcement or other Department of Homeland Security agencies."

ICE agent Jonathan Ross, killer of Rene Good, is the FBI-JTTF team leader for Minneapolis. ICE operations and Trump militarizations are often run with the JTTF and a quick internet search gets you images like this



Budget Committee Chair's Report to Council on Bill 92 page 1: **Without proof claims** that "the Department has previously participated in the JTTF" referring to MPD's Council testimony that "The Maui Police Department, in partnership with the Federal Bureau of Investigation has had an intergovernmental agreement for a Joint Terrorism Task Force (JTTF) since 2002."

Council should require proof of this claim of prior IGAs since MPD says now they lost the most recently executed FBI-JTTF contract and haven't tried to replace it over the last 4 months when they learned it was missing. It is very likely, the MPD negotiated this proposed IGA without reading the current one, if it exists, and comparing the Trump Administration's new contract proposal. Best practice in contract negotiations is to compare and contrast changing proposals. Why is this proposed FBI-JTTF IGA so important to the MPD when they aren't using the current IGA to guide them or resolve conflicts? See https://drive.google.com/file/d/1t3fqaVBDwsrhBwTTCAs1p8J9-o_83Us/view

To Summarize

1. **Honor the State Statute**, the Council needs to **“Consent” properly** which means fixing the falsehoods on the record that were the premise of Council’s premature approval, fact-finding on the IGA itself, voting on whether the IGA imposes a financial obligation, and voting on the IGA if it finds that a financial obligation exists. **No one Councilmember has the right to make a factual determination whether a financial obligation exists, dictate that to the full Council, and allow an MPD Chief to bypass a democratic vote**
2. The parts of the **BFED Committee record that need to be fixed** are correcting falsehoods or clarifying mysteries about Supervision of MPD officers detailed in the JTTF, Collaboration with ICE and Homeland Security, MPD history under the JTTF IGAs, and Discretion and Limits on MPD participation in JTTF placed on all of the parties.
3. At least one Councilmember has expressed support to collaborate with Trump’s FBI-JTTF under his NSPM-7. If a Councilmember wants the same arrangement depicted in the Budget Committee Chair’s Report, at least **Re-negotiate the IGA** with the FBI-JTTF to reflect that.
4. **Vote NO on the MPD FBI-JTTF Intergovernmental Agreement after voting to recognize a financial obligation** for all of the stated reasons

Maui Indivisible Requests

We respectfully ask the Council to set **Minimum Standards** for the MPD Chief to negotiate IGAs with the federal government. A good faith first step would be to retrieve a copy of the last executed FBI-JTTF IGA so we can see a baseline to evaluate Trump's new proposal.

Protect The County's Independence, Free Speech, and Right To Access Evidence, Investigate, and adjudicate crime and liability from the FBI practice seen in Minneapolis and across our nation. The current FBI-JTTF IGA is a binding contract that muzzles MPD, Council, and County independence. It's not just dissenters rights at stake, it is our County government too.

Enact Safeguards to Our Civil Liberties and Rights to Exist against Trump's Police State and the FBI-JTTF's mission **against MAGA defined "domestic terrorism"** and other authoritarian operations. We see how the FBI is using the "domestic terrorism" term after the Good and Pretti killings. We see the GREAT and BFED committees as natural places to start.

Vote NO on the MPD FBI-JTTF Intergovernmental Agreement for all of the stated reasons

We request to **Work with the Council** to develop those minimum standards, protections, and safeguards. We have civil liberties expertise and a national support network, well-honed UIPA practice, pre-tested model legislations, and our Maui membership is in the thousands and growing fast.