Anti-Terrorism Measures Implemented by
the New York City Police Department
- Extraterritorial Law Enforcement Activities by Local Police Department -

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Abstract: Local police departments, primarily responsible for protecting its community, have become better prepared to respond to transnational terrorist threats since September 11, 2001. The effective anti-terrorism measures implemented by the local law enforcement authorities are noteworthy. This is especially the case with the New York City Police Department. This paper outlines the International Liaison Program of the department, enumerating many strengths of the program while dispelling various criticisms of it.

Key words: Extraterritorial Law Enforcement, Local Police Department, Jurisdiction, Terrorism

Introduction

"Extraterritorial law enforcement" is itself a contradiction in term. The term "law enforcement" is defined as "detection and punishment of violations of the law."[1] In plain words, the concept of law enforcement is marked by a vertical relationship between the sovereign state and the individual. Therefore, law enforcement can take place only within the territory of the sovereign state from which the authority is granted.[2] Accordingly, law enforcement jurisdiction is traditionally and conventionally accepted to be by nature limited within territorial borders.

In contrast, the term "extraterritorial" means "beyond the geographic limits of a particular jurisdiction."[3] This term implies that a state may exercise its jurisdiction outside of its territory. Specifically, this type of jurisdiction is the jurisdiction over persons, property, or activities that have no territorial nexus whatsoever with the state that attempts to regulate them. This is sometimes conceptualized as the nationality principle, the passive personality principle, the protective principle, and the universality principle and permitted in particular cases by international law. Yet, the firmest and the most fundamental principle remains still the territorial principle.

This dichotomy between extraterritoriality and law enforcement is a significant burden to local enforcement authorities in two respective spheres. Firstly, this conflict is especially stark when the "local" community is also the very center of global politics, economy, finance, and tourism, *i.e.*, the very hub of the entire international society, the "local" law enforcement must be responsible for policing and securing its local community on the one hand, and be careful not to obstruct the seamless, constant, and borderless movement of people, goods, and transportation on the other.

Secondly, terrorism itself contains a transnational structure and background. That is to say, terrorism is a typical example of the insidiousness of transnational organized crime. It can be plotted and perpetrated by various and amorphous combinations of commanders directing different global and far-flung cells. For instance, they may have meetings in Kuala Lumpur, Malaysia, but make payments in Bangkok, Thailand to accomplish a specific plot, be trained in a failed state, such as Afghanistan, and flee to a safe haven, such as Somalia. From examining the travel pattern of terrorists, it is clear that terrorism is one of the most entwined of transnational organized crimes.

Without a doubt, New York City is one such city that is also the target of this heinous crime. In contrast to the cosmopolitan nature of the city and terrorism, the New York City Police Department's (NYPD) primary responsibility is law enforcement and investigation within the five boroughs of the city, making it "local" － *i.e.*, distinct from "federal" agencies. Albeit that it is a local authority that has limits of jurisdiction as other local police departments, it must also prepare for and respond to transnational terrorist attacks effectively to shield their city without fail, so it is the veritable example of the clash between transnationality of terrorism and territoriality of local law enforcement.

The NYPD, however, was not necessarily or sufficiently included in the national intelligence sharing network in the beginning. Nevertheless, terrorist attacks on the city definitely have a transnational character, as September 11 demonstrated. Thus, the NYPD, which sacrificed greatly due to its duty as the very first responder to the attack, established its own International Liaison Program (ILP) to gather intelligence by itself; the ILP will be delineated at length later. By sharing timely and appropriate intel-

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ligence with the first responders, law enforcement authorities will be better able to assess danger and take proper action more quickly, potentially saving and protecting many lives.[4]

In this paper, the merits and fruits of having, for the NYPD, its own foreign liaisons will be scrutinized. The ILP is the embodiment of the NYPD's eagerness to be proactive, to learn from past terrorist attacks, and to protect the city and its residents, as the NYPD itself is veritably one of the many local law enforcement authorities that are taking on the heavy duty of serving and protecting their own communities.

I. Local Law Enforcement and Extraterritorial Anti-Terrorism Measures

A. New York City and Terrorism

Before September 11, one of the main loci of border security, encompassing travel, entry, and immigration, was the southwest border in the context of the War on Drugs.[5] Now, in the post-September 11 era, border security concerns are not just single instances of criminal activities such as stowaways or contraband smuggling any longer. If such relatively-small scaled acts are committed cross-border or in the supply chain, the more serious crimes, such as trafficking of terrorists, bombs, weapons, or even weapons of mass destruction (WMD), are also feasible.

Accordingly, border security is especially important to New York City, because it serves as the heart of international transportation. In 2010, 48.7 million tourists, both international and domestic, visited New York City.[6] Its population reached past 8 million in April of 2010.[7] The number of foreign-born residents in the city has doubled since 1970, from 1.4 million then to 2.9 million in 2000, and has surpassed 3 million in 2007. Certainly, the United States, and namely New York City, is an open society that is trying not to hinder the movement of people while detecting the few terrorists who are blending in with innocent people. This policy makes law enforcement authorities' mission excessively challenging.

Additionally, during 2010, the Port of New York and New Jersey reported that total container traffic in the port was approximately 5.3 million loaded and unloaded 20-foot equivalent units (TEUs).[8] The port's total cargo volume by weight in 2008 was 88.9 million metric tons, composed of 55.3 million metric tons in bulk cargo and 33.6 million metric tons in general cargo.[9] Cruise ships often call at these ports during long journeys. Furthermore, the bombing of the *USS Cole* on October 12, 2000 in Yemen not only awakened the United States government to a sense of vulnerability of its 361 ports, but also was epoch-making for New York City, which itself is an active port; thus, maritime terrorism occurring even outside of the United States still has great significance

to the risk management and threat assessment on the city.

New York City has been, and still is, one of the prime targets for terrorist attacks, as the City's history of and ongoing efforts to combat terrorism testify. It experienced two attacks on the World Trade Center, with the latter one completely destroying the landmark on September 11, 2001. From this tragic incident, the NYPD learned to prepare for and protect against terrorist attacks. For instance, an attempted bombing of Times Square was thwarted by virtue of the effort of law enforcement agencies. Despite this, it still remains an attractive target to terrorists, especially on New Year's Eve.

Terrorist attacks that occur even outside of the United States but in places similar to New York City cannot be overlooked by the NYPD because it must gather the relevant needs-to-know intelligence so that it can formulate its own contingency plans in attacks with comparable *modus operandi*. One event that especially alarmed the NYPD was the Mumbai attack of November 26, 2008, in which ten Islamic terrorists took over and held some of the guests at the Taj Mahal Hotel and the Oberoi Trident hostage, and shot and killed the passengers at Chhatrapati Shivaji Terminus.[10] Since the heart of New York City also has innumerable hotels as well as transportation hubs such as Pennsylvania Station and Grand Central Station, this attack was one possible worst-case scenario for the city and the NYPD. Furthermore, the Madrid train bombing of March 11, 2004 and the London subway bombing of July 7, 2005 also raised the NYPD's awareness of the vulnerability of Amtrak and the citywide subway network.

Incidents like these continue to compel the NYPD to prepare for and respond to future terrorist attacks. The first responders never discuss *whether* any attacks will occur, but *when* they will occur, and thus *how* it will deter and counter them. To be proactive, it demands local law enforcement authorities to be extraterritorial.

B. Extraterritorial and Local Law Enforcement

Why is enforcement jurisdiction limited by territory? How should cross-border enforcement activities be considered? The issue of how to deal with extraterritorial law enforcement jurisdiction has been resolved by the establishment of the principle of territoriality in traditional international law theory. Law enforcement jurisdiction is definitely one aspect of sovereignty. States are conferred this absolute power to govern and regulate all persons located and activities conducted within their territory. Sovereign states have the right to legislate their domestic laws to regulate acts outside of their territory, but they may not exercise the jurisdiction to enforce their laws on foreign soil.

The principle of territoriality grants enforcement jurisdiction to a sovereign state on offenses that have occurred within or had

effects on the state.[11] The firmest, most fundamental basis for asserting jurisdiction is this territorial principle. This principle dictates a state cannot exercise its enforcement jurisdiction on another state's territory without the latter's consent. Thus, law enforcement jurisdiction is strictly based on the territorial principle with regards to international law.

II. Extraterritorial Anti-Terrorism Measures Implemented by the NYPD

As examined in the previous section, law enforcement jurisdiction is essentially limited to within territorial borders. The borders represent the dividing line between jurisdictions of one sovereign state and another. Law enforcement authorities perceive borders as the limits of their powers; nonetheless, transnational terrorist networks span international boundaries.[12]

This paradox is especially salient in the case of the NYPD. The NYPD is challenged in that it is not permitted to cross borders, even within the United States, but simultaneously compelled to go beyond the antiquated territorial principle of sovereignty. To overcome this hurdle, the NYPD has adopted a number of counter-terrorism measures that are restricted to federal agencies in principle, but are implemented by the NYPD as well, given New York City's exceptional characteristics. These new measures might break new grounds in fighting terrorism.

A. Issues in Information Gathering

On April 11, 2005, the Mayor of New York City, Michael Bloomberg, signed an executive order that authorized the NYPD to be in charge in the event of a major catastrophe in the city until the threat of terrorism is eliminated. The NYPD is empowered to direct the city's emergency agencies at the scene of virtually all potential disasters. With having this new and heavy responsibility, the NYPD has significant issues with the fact that much of the needed intelligence is withheld, making its job much more difficult on the scene even though local officers are the first responders in such a case.

It is common knowledge, however, that while intelligence sharing is crucial to deter terrorist attacks, it is also a difficult task. It is an unresolved issue that local law enforcement agencies face a lack of substantive information needed to prevent terrorism. The argument about information sharing is stressed on the flow of intelligence from federal to local for some time. Certainly, the critical importance of intelligence for frontline police officers cannot be overstated. Nonetheless, some argue concretely the feasibility to promote interactivity between the local and the federal by "helping translate national intelligence down to the first responders and helping pass along detailed local knowledge from

the first responders to the intelligence agencies."[13] Furthermore, important intelligence that may forewarn of a future attack is collected by local and state government personnel through crime control and other routine activities and by people living and working in local communities.

Regardless of the direction in which intelligence is disseminated, the common denominator is that local law enforcement should have comprehensive intelligence, which is a key factor in preventing terrorist attacks. Thus, local law enforcement entities hold the view that the axle of homeland security is bolstered by hometown security, which can only be achieved by the local police department in the community. For instance, in a hostage situation, where the hostage takers are members of a transnational terrorist organization and the hostages include many foreign nationals, hostage negotiation and rescue missions are primarily conducted by the local police department, so much information is needed on the hostage takers, such as their *modus operandi*, which determines how the police should respond. If this is not shared efficiently, the local authority will experience substantial difficulty in securing the hostages.

Another problem with intelligence sharing is that the intelligence shared by federal or military agencies might not be suitable to the needs of the local law enforcement authority. That is to say, even if intelligence sharing could eventually be achieved, there will still be a gap between what is considered necessary by one party and useful by another. Oftentimes, the local law enforcement authorities need more precise operational, case-related information.[14] Therefore, it is critical that local law enforcement authorities obtain unobstructed intelligence fitting to their own circumstances.

Yet another problem is how local agencies are able to gather intelligence on their own. Collection of information on foreign soil for a local police department to accomplish its particular mission and to protect its hometown is not a simple problem. In the United States, long-arm laws coping with drug trafficking and terrorism have been enacted to expand extraterritorial jurisdiction. As a result, there is federal extraterritorial jurisdiction over activities outside the United States that result in harm within it. Having such responsibilities, law enforcement agencies have been asked to accept an ever-expanding role in intelligence gathering, which is traditionally not within the domain of law enforcement, particularly for local police departments,[15] for which traveling abroad on criminal investigation is a rare occurrence.[16] Investigative work of local police departments is limited to their jurisdiction. In fact, even under the auspices of the ILP, the NYPD does not engage in overseas investigation.

Considering these circumstances surrounding information gathering, the NYPD's ingenious milestone program, the ILP, is a noteworthy example of an extraterritorial anti-terrorism measure

directly taken by a local law enforcement. It may raise the level of New York City's preparedness and vigilance against terrorism.

B. The International Liaison Program

1. Background and Structure

The NYPD had some experience of overseas investigation in 1909. In the first decade of the Twentieth Century, most overseas investigations of criminal matters fell to local police departments, which were the most skilled and experienced in investigative functions.[17] Also, in 1983, the NYPD detectives investigated activities of the Gambino crime family in Kuwait.[18] This characteristic aptly reflected the label *New York's Finest*, which is "in many ways the more formidable global investigatory agency."[19]

Yet, nowadays, all local police departments face the burden to respond to transnational terrorism besides their traditional demands, which are to serve the community by policing and controlling for crimes such as robbery, burglary, domestic violence, murder, etc. To bridge the discrepancy between the internationalization of terrorism and the traditional territoriality of law enforcement, the International Liaison Program (ILP) was born.

The ILP was created by Commissioner of the NYPD, Raymond Walter Kelly, in 2002.[20] This is the result of "a shift in management philosophy [within the realm of anti-terrorism policing] from reactive to proactive"[21] in the post-September 11 era.

However, the NYPD liaison officers do not take part in investigation in any cases of the ILP. Additionally, all of the ILP's activities are performed within the territory of a foreign sovereignty on the condition of the host country's consent. All the same, the liaisons disseminated essential information fitting the needs of the NYPD.

The ILP's mission is three-fold. Firstly, it is to uncover any information pointing to another terrorist attack against New York City. Secondly, it is to uncover any terrorists or their supporters residing in the New York metropolitan area. Thirdly, it is to develop information on the terrorists' tactics and methods and the best practices to defeat them. To these ends, the ILP is developing its own direct relationships with foreign law enforcement agencies for gathering terrorist-related information that is generated overseas.[22]

The NYPD has deployed officers in 11 cities in 10 foreign countries as international liaison officers for the purpose of intelligence gathering.[23] They are: London (the United Kingdom), Lyon and Paris (France), Madrid (Spain), Tel Aviv (Israel), Amman (Jordan), Abu Dhabi (the United Arab Emirates), Singapore (Singapore), Toronto and Montreal (Canada), and Santo Domingo (the Dominican Republic).[24] The liaison officers work with local, national, and international law enforcement agencies in these cities to carry out the ILP's mission.

2. The Fruits of the ILP

a. The London Subway Bombing

One of the achievements of the ILP concerned the London Subway Bombing. On July 7, 2005, Islamic fundamentalists detonated four bombs, three of which were in the London Underground and one was on the deck of a bus, killing 52 people and injuring more than 700 people. Incidentally, an ILP liaison officer was taking the Tube at the time of the attacks, and after consulting with his Scotland Yard counterparts, he was able to provide details from the scene to the NYPD. This swift information-sharing helped the NYPD to redeploy resources quickly in a way to better protect New York's subway and streets from any comparable attacks.

b. The Mumbai Attacks

The next lesson learned was from the Mumbai Attacks in India. The seriousness of this case as considered by the NYPD was patently illustrated by the testimony of Police Commissioner Kelly before the Senate Committee on Homeland Security and Governmental Affairs on January 8, 2009.[25]

The Mumbai Attacks took place on November 26, 2008, in which 10 Islamic terrorists took over Taj Mahal Hotel and the Oberoi Trident and held some of the guests hostage. A simultaneous attack on the Chhatrapati Shivaji Terminus saw some passengers shot and killed. The attacks signified that the terrorists were well-trained, despite using rudimentary weaponry such as AK-47 rifles, pistols, and grenades. They were also mobile as they came by way of the sea, and were able to maneuver easily within the complex structures, causing the 175 deaths and injuring 300 people.[26]

Within hours of the attacks, the NYPD notified the Indian government that it would be sending personnel. On December 2, three officers from the ILP arrived on the scene. Their assignment was to gather as much information as possible about the tactics used, documenting the crime scenes, taking photographs, and interviewing police officials. From the intelligence collected, the NYPD gained better awareness of the vulnerabilities of the hotels in New York City, so it was able to adopt appropriate strategies to deal with them.

c. The Jakarta Suicide Bombing

Most recently, on July 17, 2009, two synchronized bomb attacks at the Ritz Carlton and J. W. Marriott hotels in Jakarta were perpetrated. The response in New York City was quick, commencing immediately after the incidents: Within 30 minutes of the attacks, police cars and officers were deployed by the NYPD Counterterrorism Bureau (CTB) to the Marriott, the Ritz Carlton, and dozens of other hotels in New York City.

Again, to gather intelligence on the attacks from the Indonesian security officials, the NYPD dispatched a lieutenant from its ILP unit in Singapore to the scene of the bombings, just 8 hours after

the explosions. He reported back in real time to the counterterrorism division. The timeliness of the information gathered enabled the NYPD to respond effectively to the terrorist threat and increase counterterrorism patrols at sensitive locations.

d. Other Significant Cases

In places where there are no official ILP agreements, the NYPD still cooperated with the local authorities to gather the necessary information. For instance, on March 11, 2004, the Madrid Railway Bombing took place. An Islamic fundamentalist group allegedly associated with al-Qaeda detonated 10 backpacks with explosive devices on 4 commuter trains almost simultaneously in Madrid, Spain. There were 191 people killed and approximately 1,800 injured. At that time, an NYPD detective was posted there, so he was dispatched to transmit information back to New York.

After this event, in February 2009, Commissioner Kelly signed an agreement with the Madrid police officials in New York City that formalized the ILP between the two departments to thwart threats of terrorism against both municipalities.

Other than these cities, the NYPD has also dispatched officers to a number of other locations around the world: an assessment on a number of al-Qaeda bombings on Jewish synagogues and HSBC in November 2003 in Istanbul; an analysis on the Metro blasts by Chechen rebels that killed 39 people in February 2004 in Moscow; an evaluation on the attacks on Taba Hotel in October 2004 and Sharm el-Sheikh resort in July 2005 in Taba, Egypt; a review on the radicalization of Hofstad, an Islamist group whose members murdered the Dutch filmmaker Theo Van Gogh in November 2004 in Amsterdam.

Besides these case-related briefings and intelligence gathering, the NYPD also had occasions to discuss with foreign services on security and counter-terrorism matters: meeting with Austrian intelligence service to review the threat in that country; speaking with the national police force to share information on the movement of Islamist radical elements in the Philippines; convening with the Ministry of Interior in Saudi Arabia to assess the radicalization in the country; evaluating the emerging presence of radical elements in Ireland; meeting with the intelligence service in Hamburg to understand radicalization trends in Germany.[27]

As shown in these examples, the operational reaction of the liaisons and the headquarters differentiates the NYPD from the intelligence community as a whole in that the ILP gains information for the necessary operations in the city, while the intelligence agencies serve the whole nation.

III. Needs of Extraterritorial Information Gathering by Local Law Enforcement

A. Terrorists Travel Information

Since September 11, the NYPD has been compelled to adapt to tackle the new enormous challenge to deter terrorism against New York City since the attack to which the local police department must respond is transnationally supported, as the terrorists' travel pattern demonstrated.

The investigation of the September 11 attacks demonstrated saliently al-Qaeda's astonishing capabilities in international travel and in recruiting conspirators around the world.[28] Hijackers, who met with the mastermind of the attacks and operatives who were themselves ex-convicts, entered the United States before September 11. If the authorities had been knowledgeable of the contact between the operatives and the hijackers, there would be a bigger chance to capture the hijackers at strategic points since the attacks were not perpetrated by first offenders only.

Khalid Sheikh Mohammed (KSM) was the chief engineer of the first World Trade Center bombing in 1993, and was also tasked by Bin Laden to be the mastermind for the September 11 attacks. Mohammad Omar al-Harazi, a.k.a. Abd al Rahim al Nashiri, was a suspect of the 1998 bombing of the American Embassy in Nairobi, Kenya, and the mastermind of the *USS Cole* bombing on October 12, 2000. He was the leader of al-Qaeda on the Arabian Peninsula. Both of them recruited operatives for September 11.

The hijackers for September 11 started training at the *Mes Aynak* camp located 25 miles south-east of Kabul in Afghanistan. Then they moved to Karachi, Pakistan for a week to increase their familiarity with air travel as well as Western culture. Afterward, they went to Kuala Lumpur, Malaysia, to obtain further training in airport security. There, they took a "dry run" to test the security conditions by boarding the flights with concealed weapons — box cutters.

The travel patterns of the pilots and hijackers were very complex, so in order to clearly identify them for this paper, they are divided in the following four groups:

i.   South Tower Team (United Airlines Flight 175). Pilot was Marwan al Shehhi.

ii. North Tower Team (American Airlines Flight 11). Pilot was Mohamed Atta.

iii. Pentagon Team (Flight 77). Pilot was Hani Hanjour.

iv. Pittsburg Team (United Airlines Flight 93). Pilot was Ziad Jarrah.

In the early stages of preparation for September 11, the movement of Pentagon Team was frequent and active. In January 2000, in Kuala Lumpur, Malaysia, Ramzi Binalshibh (potential pilot),

Khalid al-Mihdhar (Pentagon Team), Nawaf al-Hazmi (Pentagon Team), and Tawfiq bin Attash, a.k.a. Khallad (potential pilot) had a series of meetings.[29] (Khallad is often portrayed as having an artificial right leg, or a "one-legged man", and Osama bin Laden's "run boy." He was a conspirator of the US Embassy Bombings in East Africa in 1998 and helped prepare for the September 11 attacks.) Mihdhar and Hazmi were the first two al-Qaeda members for September 11 to enter the United States through Los Angeles from Bangkok, Thailand, on January 15, 2000.[30]

Another cell composed of Mohamed Atta, Ramzi Binalshibh (potential pilot), Marwan al Shehhi, and Ziad Jarrah, known as the "Hamburg Cell" emerged from Hamburg, Germany. Some other operatives were also recruited in Hamburg, and they traveled to Afghanistan.[31] Then, in 2000, pilots and hijackers started to gather in the United States. Atta arrived from Prague, the Czech Republic, to Newark, New Jersey, on June 3, 2000. Marwan al Shehhi (South Tower Team pilot) arrived from Brussels, Belgium, at Newark on May 29, 2000. On October 29, Jarrah (Pittsburg Team Pilot) arrived back in the United States, entering through Tampa, Florida, from Frankfurt, Germany. He was the most frequent border crosser, and on January 5, returned from Dusseldorf, Germany, arrived at Newark, New Jersey and flew to Tampa, Florida. Hani Hanjour (Pentagon Team Pilot) arrived at Cincinnati from Dubai, the UAE, via Paris on December 8, 2000.

Finally, in 2001, the entry and movement of operatives became full-scale. On January 18, Shehhi (South Tower Team Pilot) arrived at JFK Airport in New York from Casablanca. Jarrah

(Pittsburg Team Pilot) arrived at Atlanta from Amsterdam, Netherland on April 13, 2001. On April 23, 2001, Walleed al Shehri (North Tower Team) and Satam al Suqami (North Tower Team) arrived at Orlando from the UAE. Marwan al Shehhi (South Tower Pilot) finally entered Miami on May 2, 2001. On the same day, Ahmed al Ghamdi (South Tower Team) and Majed Moqed (Pentagon Team) arrived at Washington D.C. and took an apartment in Paterson, New Jersey. Mihdhar (Pentagon Team), once left for Yemen, returned to the United States and joined them in Paterson. Ahmad al Haznawi (Pittsburg Team) and Wail al Shehri (North Tower Team) arrived together at Miami from Dubai, UAE on June 8, 2001. Banihammad (South Tower Team) and Saeed al Ghamdi (Pittsburg Team) arrived at Orlando from Dubai on June 27, 2001. On June 29, Salem al Hazmi (Pentagon Team) arrived at JFK Airport in New York from Dubai, UAE. On July 4, Mihdhar reentered the United States at JFK Airport. Atta finally entered the United States, Atlanta, from Madrid on July 19, 2001.

In total, these perpetrators successfully entered the United States 33 out of 34 times, including 11 entries through the New York area airports and 12 through Florida airports.[32] Figure 1 represents their transnational travel pattern, to which the NYPD had to respond as the local police department. From the density of the terrorists' movements, *i. e.*, the density of the lines that literally connect the dots, the travel pattern of attackers can be clearly visualized. Of course, this travel information might seem to be irrelevant and disjointed as merely dots on the map, the points must nevertheless be connected to create a mosaic of the terrorist
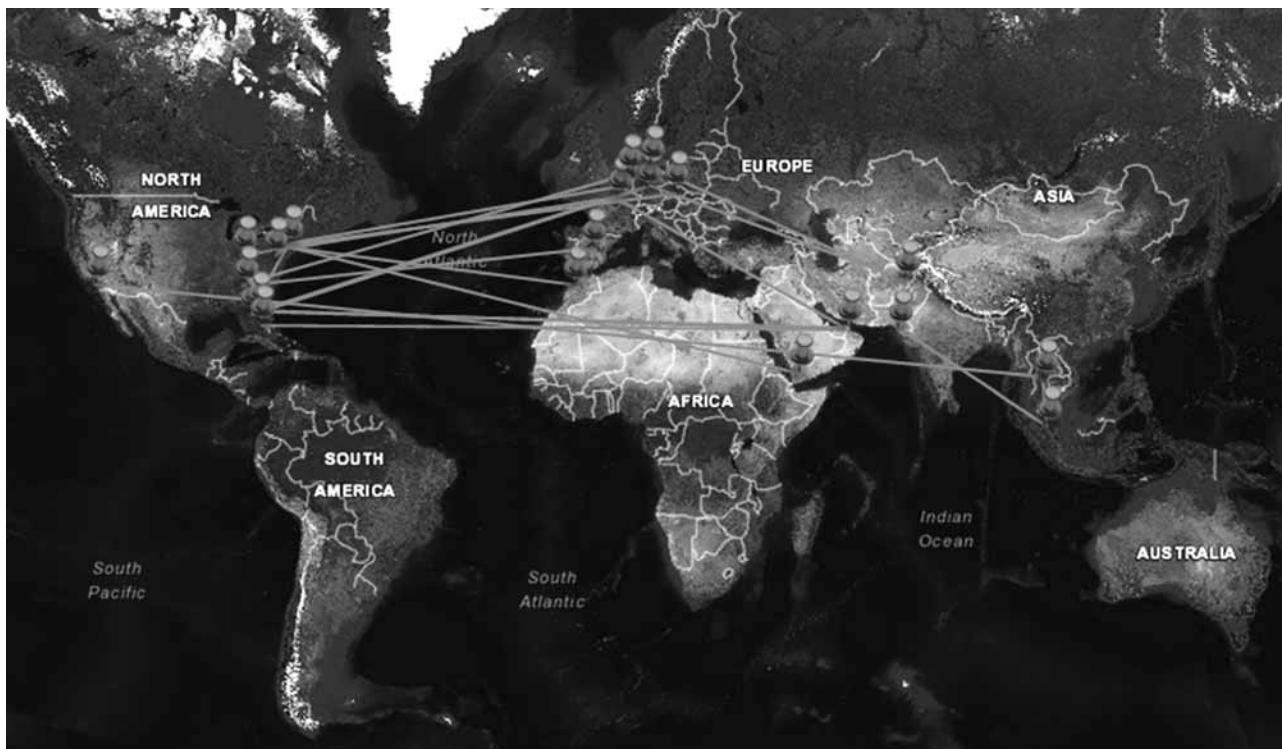

Fig.1 Travel Pattern of Hijackers

plot to thwart and prevent impending attacks. Understandably, this is not an easy task to accomplish, most of all, when the stove-piped approach divides these relevant sets of information to fragmented ones.[33]

It has even been suggested that, with the benefit of hindsight, it seems obvious that the information suggested that the hijackers received flight instruction and intended to use the aircraft as weapons but it is realistically difficult with foresight to process and estimate such raw information into concrete plans of terrorist attacks.[34]

Yet, the castigation must not be dismissed as mere hindsight bias.[35] The failure in connecting-the-dots that September 11 raised will not readily be overcome by information sharing and coordination among intelligence and law enforcement organizations.[36] It is entangled with the entire process of intelligence; that is to say, what information should be collected, on which issues, and how accurately is it processed and disseminated as precise estimation of threats on specific issues. Answers to these questions result in drawing a comprehensive picture of the necessary intelligence.

B. Information Gathering and Analysis for the Threat to New York

1. Information Gathering

As one of the alternatives to traditional intelligence gathering methods, the ILP is charging ahead on the robust and rapid flow of intelligence toward extraterritorial policing after September 11. The most significant advantage in forging foreign liaison relationships is meeting the police department's need to collect information for the specific concerns and interests of the city's situation. Since such liaison relationships are carried out on an agency-by-agency basis,[37] they are productive and fitting apparatus of information gathering that satisfy the priorities of the NYPD. Because of a lack of prioritization among the immeasurable issues affecting the precision of all of the phases of anti-terrorism measures, information gathering turns into information hoarding, *i. e.*, assembling unrelated pieces that cannot be put together into a complete jigsaw puzzle in the end. Thus, the prioritization of the intelligence gathered by the ILP in terms of its significance and relevance to the city has a considerably beneficial impact on the swiftness of the NYPD's responsive actions.

Certainly, priority of issue is assessed by taking into account of many indeterminate elements that are interconnected with one another, such as subjects (terrorist groups), acts (crimes), geography (location), etc, so there are important questions to ask about what kind of intelligence is helpful. For instance, does New York City require the information regarding WMD proliferation via commercial cargo? If it is improbable that WMD's will be used against the city, should the liaison give them less priority? How-

ever, if it is possible to imagine that even a trifle stowaway can come through the Port of New York and New Jersey, is it not prudent to assume WMD's can as well? Questions like these can expand infinitely and will not necessarily lead the police to "crush the cell",[38] but squash the first preventers and responders in their weight. Therefore, prioritization of issues is indispensable.

An admonishment of having foreign liaison relationships or creating of new intelligence units is that they will need to be accommodated within the already-crowded existing intelligence community to avoid duplication.[39] Nevertheless, the purposes of various information collectors are different depending on the agencies that send them. For instance, the military presence in Afghanistan does not involve mainly in counter-narcotics activities.[40] On the other hand, diplomats observe and report the whole of the political reality of the host country.[41] Clearly, these two bodies serve their own purposes without much overlap. Therefore, it is vital for the NYPD to have its own international liaisons collecting and handling intelligence pertinent to the city. It does not have a duplicate function from the point of view of the NYPD, but is tailored to the specific aims of the department.

Another criticism of the program is that foreign liaisons depend on their foreign counterparts so that the quality of the shared information between them is dependent on the efficiency and proficiency of the host agency, which influence the reliability and assessment of the intelligence. While this is true, this is not a flaw of the ILP itself. As embassy personnel also collect information primarily from the people in the host state, this argument would apply to them as well. Would anyone suggest that the intelligence function of an embassy is of poor quality because of the method of collecting?[42]

In short, the ILP suits the particular operational needs of the NYPD by establishing a clear sense of priority in its collection of intelligence.

2. Intelligence Analysis

Intelligence analysis is the foundation of the process of intelligence.[43] Namely, issues of confidence levels of estimation, indications, and warnings are worthy to mention from the perspective of local law enforcement.

Concerning confidence level, even though no one can assert that an attack will occur at specific time and location, it is fair to say that analytical pusillanimity must be avoided. In other words, intelligence analysts must have certain level of confidence in their analysis. Wording such as "a small but significant chance of something happening"[44] is a notorious example of this.

Regarding indications and warnings, they are close to careful police work in that they look out cautiously for something that is wrong.[45] Therefore, the ILP shows itself at its best in this sort of work by gathering clues and hints on possible attacks from for-

eign sources. This type of intelligence gives clear guidance to the police operation as red flags.

In contrast, if color-coded Homeland Security Advisory System (HSAS) inured the public to red (severe risk of terrorist attacks) or orange (high risk of terrorist attacks) level of warning, they will become indifferent to the difference between red, orange, yellow, blue, or green. This would render the system useless. One of the most significant *raison d'être* of intelligence is to warn and prepare the entire nation for any impending attacks. Thus, not having any clarity in its indication and warning will result in a decrease of its effectiveness.

The mandatory requirements on the intelligence for New York City are that information must be on the specific issue, assessment of information must be accurate, indication of threats and their warnings must be precise so that there could be speedy and efficient mitigation, preparation, and response. All of them are the nuclei of anti-terrorism measures.

Nevertheless, even when the typical terrorist attacks are subway bombing, suicide bombing, and hostage taking, the main locus of New York' security, the interconnection among broader issues, must not be ignored. As a major port city, New York is a target of water-borne attacks, as Commissioner Kelly's taking notice of the attackers of the Mumbai Attacks approaching from the water shows. Additionally, it has recently been reported that al-Qaeda is planning to erect an underwater diving capability.[46] To prevent any potential attacks in this manner, the NYPD's harbor officers have authority to board any ships that enter the port and its divers inspect the piers and hulls of vessels for underwater explosive devices.

Violent groups, such as Hezbollah and Hamas, once thought to be active only in the Middle East, have emerged within the United States and established fundraising, recruiting, and indoctrination centers throughout the country. Furthermore, they are financed by profits from drug trafficking into and out of the United States.[47] Therefore, narco-terrorism is also on the watch list of the NYPD, which tracks the money movement for deterring money laundering and terrorist financing.

Even maritime piracy should not be ignored but regarded as a benchmark of terrorism. The International Criminal Police Organization (INTERPOL) attaches vital importance to the role of police investigation in tracking financial transactions and establishing links with other types of crime benefitting from piracy, such as terrorism.[48] For instance, the Abu Sayyaf Group (ASG), an Islamist movement in the Philippines, has used piratical methods to raise money.[49] Yet, so far, the relationship between criminal organizations including terrorists and piracy is not a general trend for maritime security.[50] From perspective of port and supply-chain security, the Port of New York and New Jersey is a high value target. The vulnerability of port security and maritime logistics is

untested, but the terrorism-related risks should be enumerated. A detonation of explosive devices in port or on board ships loaded with liquefied natural gas (LNG), liquefied petroleum gas (LPG), or crude oil, is an attractive plan for terrorists. The collateral damage incurred should not be underestimated, either. The narrow, shallow, and crowded courses in the port create a maritime chokepoint so that the explosion, debris, and pollution by a terrorist attack can be quite disastrous.

For the sake of New York City's, these threats should be judged by the information that is collected globally through the eyes, ears, and with the long-arms of the NYPD.

Conclusion

Terrorist attacks could occur in any local community. In contrast to their venues of attack, terrorist networks and cells that support those catastrophic and traumatic attacks are expanding around the world, crossing borders, and traveling internationally. Any local police department that is assigned the crucial task of protecting its hometown must accomplish its duty within its jurisdiction as first preventers and responders.

To prepare for and respond to these threats arisen from transnational terrorist organizations, local law enforcement authorities cannot be indifferent to information gathering on foreign soil. The ILP of the NYPD is an epoch-making program as an extraterritorial anti-terrorism measure implemented by local police department.

On the other hand, the ILP must surmount commonly unresolved issues faced by other parties within the intelligence community. These issues are intertwined and they concern sharing information, connecting the dots, and issuing appropriate warning. Firstly, the accuracy and certainty of the shared information depend on the sources and analysis of host agencies. If the host agency depends on second-rate information, international liaison is not a reliable way of intelligence gathering. Secondly, when the dots are not connected adequately, threat judgment will not be trust-worthy.[51] On the other hand, if the analysts make too many links among the dots, they might depict a false picture and overreact.[52] When the local law enforcement authorities are drowned in the flood of information, they will suffer from "threat fatigue"[53] that decreases sensitivity to the risks, which facilitates overlooking a Trojan horse.[54] If they receive intelligence that all of the facilities in the city are under imminent threat, they will not be able to effectively safeguard the city.

Therefore, the problem that now confronts the ILP is how the liaisons should collect the information, how the information should be processed, how the analysts should evaluate the threats to New York, and how the NYPD should formulate anti-terrorism measures in New York City. This is not an inherent problem of the

ILP, but a common one for the intelligence function. If the appropriate and desirable intelligence cannot be defined, in other words, if there are no silver bullets,[55] the bottom line is that the would-be proficient liaison will come to find it by seeing, hearing, and assembling together ostensibly unrelated pieces of information in order to prevent the next attack that might loom ahead for New York City.

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ニューヨーク市警察のテロ対策

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要旨：　2001 年 9 月 11 日に発生した米国同時多発テロ以後、従来、地域の安全に第一義的な責務を負ってきたニューヨーク市警察（NYPD）は、国境を越えるネットワークに支えられたテロリズムに対応するための準備を整えてきた。NYPD のこうした特筆すべき各種テロ対策のうち、情報収集のための連絡官（リエゾン・オフィサー）を国外の拠点に配置することを可能にしたインターナショナル・リエゾン・プログラム（ILP）は、市警察の管轄を越えた情報収集及びテロ対策として有益であるため本稿で紹介する。

キーワード：　域外法執行、市警察、管轄権、テロリズム