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**MONTEREY, CALIFORNIA**

**THESIS**

**DOMESTIC TERRORISM: FIGHTING THE LOCAL  
THREAT WITH LOCAL ENFORCEMENT**

by

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March 2013

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**DOMESTIC TERRORISM: FIGHTING THE LOCAL THREAT WITH LOCAL  
ENFORCEMENT**

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Submitted in partial fulfillment of the  
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## **ABSTRACT**

Since 9/11, the NYPD has taken on what might be called a personal vendetta to never allow another terrorist attack to strike the citizens of New York City. It has developed a unique and controversial model that critics say consistently pushes the boundaries of the law and civil rights in an attempt to spy on and monitor the behavior of the residents of New York City in order to prevent another devastating attack.

New York City is not the only place affected by the threat of domestic terrorism. Other municipalities have realized this threat and have attempted to establish methods to prevent the occurrence of a similar scenario in their locales. Many municipalities have attempted to develop their own version of a counterterrorism defense using their own ideas and following those from the NYPD. However, the NYPD model has been criticized for encouraging racial profiling and violating citizens' civil liberties through their collection methods. This thesis will suggest how other municipalities can utilize positive aspects of the NYPD model to deter and foil any future attempts to cause our nation harm.

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# TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION.....</b>	<b>1</b>
<b>A.</b>	<b>MAJOR RESEARCH QUESTION.....</b>	<b>1</b>
<b>B.</b>	<b>IMPORTANCE OF RESEARCH.....</b>	<b>2</b>
<b>C.</b>	<b>PROBLEMS AND HYPOTHESES .....</b>	<b>3</b>
<b>D.</b>	<b>LITERATURE REVIEW .....</b>	<b>5</b>
<b>E.</b>	<b>METHODS AND SOURCES.....</b>	<b>10</b>
<b>F.</b>	<b>THESIS OVERVIEW .....</b>	<b>10</b>
<b>II.</b>	<b>DOMESTIC TERRORISM: FIGHTING THE LOCAL THREAT.....</b>	<b>13</b>
<b>A.</b>	<b>INTRODUCTION.....</b>	<b>13</b>
<b>B.</b>	<b>WHAT IS DOMESTIC TERRORISM?.....</b>	<b>13</b>
<b>C.</b>	<b>IS THERE A SERIOUS DOMESTIC THREAT?.....</b>	<b>18</b>
<b>D.</b>	<b>WHY LOCAL LAW ENFORCEMENT? .....</b>	<b>21</b>
<b>III.</b>	<b>THE NYPD MODEL: THE GOOD, THE BAD, AND THE UGLY .....</b>	<b>25</b>
<b>A.</b>	<b>INTRODUCTION.....</b>	<b>25</b>
<b>B.</b>	<b>THE GOOD.....</b>	<b>25</b>
<b>C.</b>	<b>THE BAD.....</b>	<b>29</b>
<b>D.</b>	<b>THE UGLY.....</b>	<b>35</b>
<b>E.</b>	<b>CONCLUSION .....</b>	<b>39</b>
<b>IV.</b>	<b>COUNTERTERRORISM IN OTHER COMMUNITIES .....</b>	<b>41</b>
<b>A.</b>	<b>INTRODUCTION.....</b>	<b>41</b>
<b>B.</b>	<b>THE LOS ANGELES POLICE DEPARTMENT .....</b>	<b>41</b>
<b>C.</b>	<b>THE BOSTON POLICE DEPARTMENT.....</b>	<b>46</b>
<b>D.</b>	<b>THE CHICAGO POLICE DEPARMTENT.....</b>	<b>53</b>
<b>E.</b>	<b>OTHER MUNICIPALITIES .....</b>	<b>55</b>
<b>F.</b>	<b>CONCLUSION .....</b>	<b>57</b>
<b>V.</b>	<b>FINAL ANALYSIS AND CONCLUSION.....</b>	<b>59</b>
<b>A.</b>	<b>THE DO'S.....</b>	<b>59</b>
<b>B.</b>	<b>THE DO NOTS AND WHAT SHOULD BE CONSIDERED FEDERAL RESPONSIBILITY .....</b>	<b>62</b>
<b>C.</b>	<b>OTHER ADDITIONS TO THE COUNTERTERRORISM MISSION ...</b>	<b>64</b>
<b>D.</b>	<b>CONCLUSION .....</b>	<b>65</b>
	<b>LIST OF REFERENCES.....</b>	<b>67</b>
	<b>INITIAL DISTRIBUTION LIST .....</b>	<b>73</b>

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## LIST OF ACRONYMS AND ABBREVIATIONS

9/11	September 11, 2001
ATD	Anti-Terrorists Division
BPD	Boston Police Department
BRIC	Boston Regional Intelligence Center
BRS	Behavioral Recognition System
CBRNE	Chemical, Biological, Radiological, Nuclear and high yield Explosives
CCTV	Closed Circuit Television
CIA	Central Intelligence Agency
CIAC	Colorado Information Analysis Center
CIG	Central Intelligence Group
CPD	Chicago Police Department
CRS	Congressional Research Service
CT	Connecticut
CTSOB	Counter-Terrorism and Special Operations Bureau
DHS	Department of Homeland Security
DOJ	Department of Justice
ESD	Emergency Services Division
FBI	Federal Bureau of Investigation
FBI FIG	Federal Bureau of Investigation Field Intelligence Group
G8	Group of Eight
GAO	Government Accountability Office
HIDTA	High Intensity Drug Trafficking Areas
IEP	Improvised Explosive Device
ILP	International Liaison Program
JRIC	Joint Regional Intelligence Center
JTTF	Joint Terrorism Task Force
LAPD	Los Angeles Police Department
LEA	Law Enforcement Agencies
NATO	North Atlantic Trade Organization

NJ	New Jersey
NY	New York
NYCLU	New York Civil Liberties Union
NYPD	New York Police Department
SAR	Suspicious Activity Report
SSU	Special Services Unit
TAPT	Triacetone-Triperoxide
TCL	Target Capabilities List
TEW	Terrorism Early Warning
TIC	Tactical Intelligence Center
TLO	Terrorism Liaison Officer
TTP	Tehrik-e-Taliban of Pakistan
USAI	Urban Areas Security Initiative
WMD	Weapons of Mass Destruction

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# I. INTRODUCTION

## A. MAJOR RESEARCH QUESTION

Since 9/11, the NYPD has taken on what might be called a personal vendetta to never allow another terrorist attack to strike the citizens of New York City. It has developed a unique and controversial model that critics say consistently pushes the boundaries of the law and civil rights in an attempt to spy on and monitor the behavior of the residents of New York City in order to prevent another devastating attack.

The NYPD model is an aggressive counterterrorism and intelligence effort that separates the counterterrorism and intelligence missions into entirely different divisions. The intelligence division consists of highly trained intelligence analysts whose main responsibility is analyzing the information received from out in the field and reporting to higher authority. Those who operate in the field and collect the information have organized their effort through a mapping tactic to separate who lives where and what ethnicity they belong to. The data or information is then visualized geographically to understand the lay of the land. This technique not only encompasses the boroughs of New York, but the NYPD has also expanded their collection of information throughout different states around the country and even overseas. While utilizing informants and agents to gather intelligence, the NYPD has created their own version of the CIA and FBI within the department.

New York City is not the only place affected by the threat of domestic terrorism. Other municipalities have realized this threat and have attempted to establish methods to prevent the occurrence of a similar scenario in their locales. Many municipalities have attempted to develop their own version of a counterterrorism defense using their own ideas and following those from the NYPD. However, the NYPD model has been criticized for encouraging racial profiling and violating citizens' civil liberties through their collection methods. This thesis will suggest how other municipalities can utilize positive aspects of the NYPD model to deter and foil any future attempts to cause our nation harm. It will attempt to answer the questions: what lessons does the New York

Police Department model offer for other police departments and communities around the United States in fighting against the domestic terrorism threat? And, what aspects of the NYPD model should be handled at the federal level?

## **B. IMPORTANCE OF RESEARCH**

The devastating events that occurred on September 11, 2001, prove that there are people in this world who will go to great lengths to cause the most chaos and terror to the United States, its political and financial infrastructure, and the American people. And although there has not been another attack within the United States on the scale of 9/11 since 2001, the threat remains. The danger of a terrorist attack is evident in the numerous plots that law enforcement foil on a yearly basis. The Heritage Foundation has recently released a report that describes at least 50 foiled terror plots within the boundaries of the United States since 9/11. These foiled plots, all thwarted by U.S. intelligence and law enforcement agencies, have shown that America faces a significant homegrown and domestic terrorism threat.<sup>1</sup>

The ability of would-be terrorists to travel abroad has shortened the radicalization period and strengthened the desire for collective revenge against the United States among some individuals inspired by radical ideology. The ability to travel without suspicion has expanded the terrorist network's ideology and increased the demand. For example, in June 2011, during an undercover operation in New Jersey, the NYPD arrested and eventually convicted Mohamed Mahmoud Alessa and Carlos Eduardo Almonte for attempting to fly to Somalia to join the terrorist group al-Shabab in order to learn and join the fight to kill Americans.<sup>2</sup>

Largely due to the significant increase in extremist websites and social circles on the Internet, radical ideology has become easily available to individuals surfing the web looking for a sense of belonging. This proliferation of radical content has significantly

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<sup>1</sup> James Jay Carafano, Steven Bucci, and Jessica Zuckerman, "Fifty Terror Plots Foiled Since 9/11: The Homegrown Threat and the Long War on Terrorism," The Heritage Foundation, April 25, 2012, <http://www.heritage.org/research/reports/2012/04/fifty-terror-plots-foiled-since-9-11-the-homegrown-threat-and-the-long-war-on-terrorism>.

<sup>2</sup> "With CIA Help, NYPD Built Secret Effort to Monitor Mosques, Daily Life of Muslim Neighborhoods," Associated Press, August 24, 2011, 7.

increased the potential of the lone-wolf actor to become radicalized and act independently at home or abroad. Whether the individual suffers from alienation, financial poverty, brainwashing, or decided to take up a cause from a radical organization, trends do exist and have bolstered since 9/11. According to the Heritage Foundation, there have been examples of 15 lone-wolf domestic terrorist threats foiled by law enforcement agencies.<sup>3</sup>

With the rise of domestic and homegrown terrorism within the United States, it is evident that there must be an increase in counterterrorism and intelligence prevention measures. Law enforcement agencies throughout the country are the first responders in the event of terrorism; they patrol and observe the daily lives of the people throughout their municipality, and should be the ones who conduct the majority of the intelligence and counterterrorism operations. Unlike federal agents who only enter communities as part of an active investigation, local law enforcement personnel normally live and grow up within the vicinity and know the area inside and out. The responsibility should be placed where the issue can be handled more efficiently and where proper leadership can effectively decide what's best for that area. Community members trust their local and state law enforcement members due to the realization that they are essentially part of the community. Because they live in the community they develop gut instincts that gives them the sense of what is wrong. For this reason, it is important to understand the NYPD counterterrorism model and whether other communities can copy it.<sup>4</sup>

### **C. PROBLEMS AND HYPOTHESES**

Since 9/11, many experts have argued the NYPD has been the model for local and state municipalities to follow. However, not everybody agrees with this statement. The NYPD has significantly pushed the boundaries of racial profiling and some have criticized their abuse of civil rights. Recent reports have found the ethnic mapping techniques used by the NYPD's counterterrorism team violate the rights of minorities.<sup>5</sup> Informants hired explicitly based on their language and ethnic backgrounds are employed

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<sup>3</sup> "Fifty Terror Plots Foiled Since 9/11."

<sup>4</sup> Mayer, "Effective Counterterrorism," 1.

<sup>5</sup> Star-Ledger Editorial Board, "NYPD probe of N.J. Muslims an insidious betrayal," NJ.COM, February 23, 2012, [http://blog.nj.com/njv\\_editorial\\_page/2012/02/nypd\\_probe\\_of\\_nj\\_muslims\\_an\\_in.html](http://blog.nj.com/njv_editorial_page/2012/02/nypd_probe_of_nj_muslims_an_in.html).

to observe mosques, known as mosque crawlers. NYPD officers, called rakers, then troll ethnic neighborhoods performing surveillance operations and receiving reports from their informants. If an informant discloses information that deems to be suspicious activity, the intelligence department labels this area a hotspot. David Cohen, the NYPD's first intelligence chief, refers to this tactic as "Raking the Coals for Hot Spots."<sup>6</sup>

The mapping tactic led by NYPD's intelligence department has led to serious accusations of racial profiling and civil-rights violations that often land NYPD officials in court battling law suits over violations of the *Handschu v. Special Services Division* decision in 1971. This decision was the result of the NYPD spying on students, civil-rights groups, and suspected Communist sympathizers during the 1950s and 1960s. It produced strict federal guidelines that prohibit the NYPD from collecting information about political speech unless it is related to potential terrorism or there is "specific information" that the group is linked to a crime that had been committed or was about to be committed.<sup>7</sup> A recent report from the American Civil Liberties Union found that the NYPD intelligence surveillance operations never resulted in a lead to a terrorism investigation specifically related to the mapping techniques. The report supports the argument of critics that the NYPD's Demographics Unit spied on Muslim New Yorkers, not because they were suspected of criminal activity, but based on ethnicity and native language with no leads.<sup>8</sup>

Although the mapping technique has been severely criticized as violating the innocent's rights and racial profiling, this technique is not the only tool available to the NYPD. The annual \$178 million budget just for intelligence and counterterrorism, which does not even include the private donations through different foundations that support the different divisions of the NYPD, allows the department to hire the best intelligence officers and buy the highest technology in monitoring and software capabilities on the

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<sup>6</sup> "With CIA Help."

<sup>7</sup> NYPD Testimony on Muslim Surveillance Operation Highlights Futility of Spying on Innocent People American Civil Liberties Union, August 21, 2012, <http://www.aclu.org/national-security/nypd-testimony-muslim-surveillance-operation-highlights-futility-spying-innocent>.

<sup>8</sup> NYPD Testimony on Muslim Surveillance.

market.<sup>9</sup> This budget allows for an expenditure on intelligence and counterterrorism efforts that seems impossible for other municipalities to follow.

The constant struggle between the need to respect civil liberties and the prevention of domestic terrorism, as well as the NYPD's large budget compared to other cities, are the most important problems or issues that are raised by the major research question. However, this thesis will hypothesize there are several good qualities found in the NYPD model that other municipalities can utilize as well as other techniques that do not bear the burden of fiscal difficulties.

#### **D. LITERATURE REVIEW**

The topic of law enforcement's capabilities in the fight against terrorism has been debated heavily within the past ten years. During the last few years the discussion has intensified, based on the increasing number of foiled terrorist threats, the rise of homegrown and domestic terrorism, and the recent efforts to call on the federal courts to prevent the NYPD from racial profiling and domestic spying. Several reports and articles have been written over the years that present both sides of the debate: should local law enforcement departments continue to enhance their capability in preventing a terrorist attack, or should the federal government mostly handle this?

Although traditionally state and local officials have responded to local security needs, in recent years the U.S. government has taken a clearly defined and more active role in federalizing the homeland security mission. A report from the Heritage Center for Data Analysis argues states themselves could do the job better if they had adequate resources.<sup>10</sup> This report describes the need for a larger role of the local municipalities in the fight against the prevention of domestic terrorism. The report quotes Alexander Hamilton in *The Federalist No. 17* as follows: "There is one transcendent advantage belonging to the province of the State governments, which alone suffices to place the

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<sup>9</sup> Stein, "NYPD intelligence detectives go their own way," 1.

<sup>10</sup> Matt A. Mayer, "Effective Counterterrorism: State and Local Capabilities Trump Federal Policy," Heritage Foundation, June 3, 2009, 1.

matter in a clear and satisfactory light—I mean the ordinary administration of criminal and civil justice.”<sup>11</sup> This quote supports the view in favor of expanding the NYPD model to other communities.

Those that argue for the NYPD model claim that since the disastrous moments of 9/11, the federal government has created and reorganized over several hundred government organizations, expanded the intelligence efforts throughout the country, and awarded several hundred secret clearances to both military and civilians working for the government.<sup>12</sup> However, despite this monumental effort by the government, terrorism plots continue to unfold within the United States. The determination of Islamist extremists to bring death and chaos to the American people has created a serious debate over the effectiveness of how the U.S. conducts the “homegrown” war on terror and whether these efforts should be restructured.<sup>13</sup>

A paper written by the NYPD in 2007 concludes that the threat confronting Americans now comes more from homegrown terrorists than from overseas groups. The authors state, “These Homegrown Terrorists follow remarkably similar behavior patterns. Participants in the 11 anti-Western terrorism plots analyzed in the report all went through four stages on the path from unremarkable to violent: Pre-radicalization, Self-identification, Indoctrination and Jihadization.”<sup>14</sup> This report is an extensive and explicitly detailed analysis on the topic of homegrown terrorism threat that came out of the intelligence office of the NYPD, and suggests that local level officials can produce high quality analysis.

According to recent articles and interviews, The NYPD has taken its role of preventing terrorism from reaching their doorstep to heart. The effects of 9/11 pushed the NYPD to reorganize into the country’s most aggressive domestic intelligence agency.

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<sup>11</sup> Mayer, “Effective Counterterrorism,” 1.

<sup>12</sup> Judith Miller, “The Shield We Need: The best defense against terrorism is not in D.C.—it’s the NYPD model,” *New York Daily News*, July 25, 2010.

<sup>13</sup> Judith Miller, “On the Front Line in the War on Terrorism,” *City Journal*, Summer 2007.

<sup>14</sup> Mitchell D. Silber and Arvin Bhatt Senior Intelligence Analysts NYPD Intelligence Division, “Radicalization in the West: The Homegrown Threat,” report by the New York City Police Department, 2007.

The reorganization began in 2002 when Police Commissioner Ray Kelly took over the NYPD and David Cohen became the NYPD's first Intelligence Chief. Both Kelly and Cohen shared the belief that the NYPD could not solely rely on the Federal Government to prevent terrorism in their area of responsibility. Cohen would tell his staff that, "If anything goes on in New York, it's your fault."<sup>15</sup> The attitudes represented by Cohen and Kelly gave the staff a sense of responsibility. This forced the men and women to erase the mindset of relying on the federal government for help, and to realize that New York was their city and they had to do whatever means necessary to protect it. The NYPD created its first dedicated intelligence division complete with undercover agents, informants, analysts, a community mapping effort, a terrorism cyber unit, a small army of linguists, and even domestic and overseas presence in other states and 11 other countries.<sup>16</sup>

Amanda Ripley of Time Magazine states that the release of the Silber and Bhatt paper, "Radicalization in the West," "will spur the federal government ostensibly leading the war on terror to show more faith in the general public's ability to digest serious intelligence."<sup>17</sup> With the understanding that such a detailed and explicit report came from a local law enforcement department, other law enforcement agencies could digest the knowledge needed to pursue trends outlined with the report and understand the potential ingredients for the making of a homegrown terrorist. Ripley's argument supports those who believe law enforcement should take a stronger hand in domestic intelligence and counterterrorism.

The importance of having intelligence analysts is crucial to the counterterrorism process. Analysts are able to inform detectives and enhance their credibility when dealing with potential sources out in the field. They are able to dissect the information and give knowledge to the officers out in the field in order to improve their duties as undercover agents or those investigating a lead. Recommendations from the New American

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<sup>15</sup> "With CIA Help."

<sup>16</sup> Judith Miller, "Terror Target: Manhattan," *The Wall Street Journal*, June 19, 2010, 2.

<sup>17</sup> Amanda Ripley, "How to Look at Homegrown Terrorism," *Time U.S.* Aug. 16, 2007.

Foundation argue local law enforcement departments should integrate trained and educated Intelligence analysts within their departments as is done in the NYPD model.<sup>18</sup>

Those who argue against the NYPD model, such as civil rights activists, claim the organization steps beyond the border of civil liberties and racial profiling. Criticism from the FBI focuses on the New Jersey surveillance controversy, where NYPD officers were found conducting surveillance operations on Muslims inside the state without notifying New Jersey officials.<sup>19</sup> New Jersey's FBI chief, Michael Ward, also has been extremely critical of the NYPD for not conducting the operations within the umbrella of the Joint Terrorism Task Force, to which the NYPD belongs. He said, "The actions undermined the bureau's own efforts by sowing distrust of authorities among Muslims and weakened national security."<sup>20</sup>

Critics of the NYPD model make several arguments. First, they argue the process "Opens the door to racial profiling ... and exposes law-abiding people to government prying into their private affairs without just cause."<sup>21</sup> Several organizations including the New York Civil Liberties Union claim the NYPD mapping project unfairly singles out the Muslim community as the primary concern for which results in unfair police surveillance and spying.

Second, other critics such as Judith Miller argue that the financial expenditures and the size of the NYPD force means it cannot be an effective model for other municipalities to follow. Miller notes that a Washington-based think-tank argues the NYPD has the resources, "To do things that other departments cannot."<sup>22</sup> The NYPD has over 50,000 employees and 36,000 sworn officers to conduct law enforcement activities and protect eight million citizens. The next top five largest U.S. police departments

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<sup>18</sup> Brian Fishman and Andrew Lebovich, "Countering Domestic Radicalization," New American Foundation, National Security Studies Program, June 2011.

<sup>19</sup> Adam Goldman and Matt Apuzzo, "NYPD built secret files on mosques outside NY," Associated Press, Feb. 22, 2012

<sup>20</sup> Samantha Henry, "N.J. finds NYPD Muslim surveillance is legal," Associated Press, May 24, 2012, <http://www.washingtontimes.com/news/2012/may/24/nj-finds-nypd-muslim-surveillance-legal/?page=all>

<sup>21</sup> McNamara, Testimony, Mike German and Jay Stanley, "Fusion Center Update," ACLU July 2008, [http://www.aclu.org/pdfs/privacy/fusion\\_update\\_20080729.pdf](http://www.aclu.org/pdfs/privacy/fusion_update_20080729.pdf).

<sup>22</sup> Judith Miller, "On the Front Line."

combined do not have as many employees. Experts argue that conducting a counterterrorism effort on the scale of the NYPD, which includes constant surveillance, undercover infiltration of suspected groups both local and overseas, and the analytical work to organize and make sense of all the collected intelligence, requires a work force of personnel on the scale of the NYPD, which is entirely unrealistic for other cities around the country. Simply put, other municipalities do not have the extra personnel or staff to conduct these extra duties.<sup>23</sup>

Finally, several scholars have argued some of the aspects of the NYPD model should be handled at the Federal level. The Intelligence Division's International Liaison Program (ILP), for example, has NYPD officers in 11 foreign capitals. The main mission of the ILP is to gather information and gain perspectives around the world. They act as the eyes and ears of the NYPD to access international intelligence.<sup>24</sup>

The ILP has been seen as a rogue intelligence division with no oversight and an outrageous amount of funding. While NYPD officers are stationed in the 11 foreign capitals, they work for no one but the NYPD. They operate outside the authority of top U.S. officials abroad including American ambassadors and CIA station chiefs, who operate as the head of U.S. intelligence in foreign countries. The NYPD officers are not official members of the country team, and they do not have the top-secret clearances and equipment to receive or send classified information. The NYPD officers travel on tourist passports. They live in hotels or apartments. Their out-of-channels status makes them virtually useless to other intelligence or police agencies, both U.S. and foreign. The argument is being made that the duties undertaken by the NYPD's ILP fall beyond the responsibilities of local law enforcement and their presence becomes more of a hindrance than any type of assistance.<sup>25</sup>

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<sup>23</sup> Ibid.

<sup>24</sup> "With CIA Help," 7.

<sup>25</sup> Jeff Stein, "NYPD Intelligence Detectives go their own way," Washington Post, November 10, 2010.

## **E. METHODS AND SOURCES**

The research involved in answering the question of this thesis consists of a detailed study on the subject of law enforcement's efforts in preventing further terrorist attacks. This thesis will thoroughly review articles, interviews, case studies and a few statistical analyses done over the past eleven years to help assist in answering the research question. This thesis includes a detailed case study of the NYPD and the counterterrorism model developed after 9/11, and examines the intelligence and counterterrorism capabilities of other local law enforcement departments, which include case studies from the Los Angeles, Chicago, and Boston Police Departments.

This thesis recognizes aspects of the NYPD model that benefit other municipalities, as well as those that should not be replicated. This thesis also identifies aspects of the model that should not be handled by any law enforcement agency including the NYPD, and recommends those aspects be handled at the federal level. Several law enforcement agencies have interpreted the counterterrorism mission and the legalities of the Patriot Act in their own unique way. A study that depicts what agencies have done in the past can successfully make recommendations for future decisions and effectively answer the question of this thesis.

## **F. THESIS OVERVIEW**

This thesis is organized into six chapters. The first chapter is the introduction, followed by Chapter II, which addresses what domestic terrorism is, the effect it has had on our nation since 9/11, and evidence of radicalization within the boundaries of the United States. Chapter III is a case study of the NYPD model. This chapter analyzes and defines the model, as well as depicts the positive and negative aspects including the good, bad, and ugly facets of the model. Chapter IV examines the intelligence and counterterrorism capabilities of other local law enforcement departments, including case studies of the Los Angeles and the Boston Police Departments. This chapter examines these municipalities and describes what law enforcement agents outside the NYPD have done. The final chapter is the conclusion. This chapter examines specific lessons from the NYPD model and suggests which aspects would be beneficial to local law enforcement

agencies. This chapter will also summarize what was researched, the nature of the arguments made, how the answer to the question was reached, and what pre-existing views were challenged.

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## **II. DOMESTIC TERRORISM: FIGHTING THE LOCAL THREAT**

### **A. INTRODUCTION**

The horrific events of September 11, 2001, revealed that the cities of the United States are vulnerable to an attack. These events prove that there are people in this world who will go to great lengths to cause the most chaos and terror to the United States, to its political and financial infrastructure, and to the American people. The damage sought by terrorists and their organizations can be both physical and psychological. The term “terrorism” has been around for centuries as a political tool to incite fear and panic. However, a new set of terms has emerged this past decade, including domestic terrorism, homegrown terrorism, and the lone wolf terrorist, all of which have grown in importance and have begun to threaten our way of life.

This chapter will define these new terms according to passed by Congress and expressed throughout academic studies. The second section of this chapter will describe the effect domestic terrorism has had on our nation since 9/11. The last section of this chapter will argue why local law enforcement can do a better job handling and preventing the threat of domestic terrorism than federal authorities. This chapter will begin constructing the framework of this thesis in order to successfully answer the questions of this thesis.

### **B. WHAT IS DOMESTIC TERRORISM?**

Ten years after the devastating attacks on 9/11, policy makers, including in the Department of Homeland Security, struggle to appropriately define and assign responsibility to the term domestic terrorism and related terms. Currently there are several versions of these terms, which this section will identify. The terms considered throughout the federal, state, local entities include domestic terrorism, homegrown terrorism, and lone wolf terrorism. There are several versions of these definitions. The inability to create a single lawful definition of each of these terms not only makes it

difficult to prosecute a suspect in court, but it also makes it difficult to understand the responsibility between the law enforcement agencies at all levels from federal down to the local level.

Since 1983, the U.S. government has defined terrorists as only, “those who perpetrate premeditated, politically motivated violence against non-combatant targets.”<sup>26</sup> After the devastating events on 9/11, the Bush Administration and Congress produced the USA PATRIOT ACT, which enabled law enforcement officials to track down and punish those responsible for the attacks on 9/11 and to protect against any similar attacks. According section 802 of the Patriot Act, Domestic Terrorism is defined as acts that:

1. Involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State:
2. Appear to be intended
  - a. *To intimidate or coerce a civilian population;*
  - b. *To influence the policy of a government by mass destruction, assassination, or kidnapping; or*
  - c. *To effect the conduct of a government by mass destruction, assassination, or kidnapping; and*
3. Occur primarily within the territorial jurisdiction of the United States<sup>27</sup>

Critics of the Patriot Act wondered why the administration felt the need to expand the definition to include a wide variety of domestic criminal acts.<sup>28</sup> However, now that

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<sup>26</sup> Statement of Honorable John Ashcroft, Attorney General, *Department of Justice Oversight: Preserving Our Freedoms While Defending Against Terrorism*, Hearings Before the Committee on the Judiciary United States Senate, 107th Congress, First Session Serial No. J-107-50 (Dec. 6, 2001) 316. Also quoted from Manas Mohapatra, “Learning Lessons from India: The Recent History of Antiterrorist Legislation on the Subcontinent,” *The Journal of Criminal Law and Criminology* (Northwestern University), Vol. 95, No. 1 (Autumn 2004), 339. In this article, Mohapatra argues India is an example of a country that manipulates their legislation to fight against the growing threat of terrorism. The author then compares this legislation change to the U.S.’s bill passed called the Patriot Act and the effects it has on civil liberties.

<sup>27</sup> USA PATRIOT ACT 802, 115 Stat. at 376, Definition of Domestic Terrorism, PUBLIC LAW 107-56—OCT. 26, 2001.

<sup>28</sup> Mohapatra, “Learning Lessons from India,” 339. The argument from the author here is that there is a tendency for governments to take advantage of the generalized definition of terrorism to neutralize political opponents and minority groups comparing legislation changes of India to the U.S. legislation.

the Domestic Security Enhancement Act of 2003 was passed, nicknamed the PATRIOT Act II, the focus of this nation is to do whatever it takes to defeat the threat of terrorism despite civil libertarian groups and others that oppose the Act. The FBI simplifies the definition stating shorthand; domestic terrorism is “Americans attacking Americans based on U.S.-based extremist ideologies.”<sup>29</sup> Despite the vague definition, the criminal aspect of the meaning of domestic terrorism provides a strong argument for the increased law enforcement presence in the counterterrorism field.

Another term used throughout law enforcement and written about in numerous articles is Homegrown Terrorism. Although there is no official definition, The Violent Radicalization and Homegrown Terrorism Prevention Act of 2007 approved by the House of Representatives in October 23, 2007 attempted to define this term as follows:

The term ‘homegrown terrorism’ means the use, planned use, or threatened use, of force or violence by a group or individual born, raised, or based and operating primarily within the United States or any possession of the United States to intimidate or coerce the United States government, the civilian population of the United States, or any segment thereof, in furtherance of political or social objectives.<sup>30</sup>

Another way to define homegrown terrorists, according to the Center for Technology and National Security Policy at the National Defense University, is to separate the meaning into three categories. These categories include immigrants and visitors, legal or illegal second and third generation members of the Muslim diaspora community, and converts to Islam. The study also found that homegrown terrorism could be grouped into two general categories. These categories include those that would do

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<sup>29</sup> Federal Bureau of Investigation, “Domestic Terrorism in the Post-9/11 Era,” September 7, 2009, [http://www.fbi.gov/news/stories/2009/september/domterror\\_090709](http://www.fbi.gov/news/stories/2009/september/domterror_090709).

<sup>30</sup> H.R. 1955 (110th): Violent Radicalization and Homegrown Terrorism Prevention Act of 2007. 110th Congress, 2007–2009. Text as of Aug 02, 2007. The bill was passed by the House of Representatives on April 19, 2007, and introduced to the Senate on August 2, 2007. However, the bill failed to pass during the 110th Congress. Although this bill did not become law, the definition seems to reflect common thinking.

harm in the United States and those that provide support for terrorism abroad. This definition focuses on the Islamic radicalization aspect of Homegrown Terrorism.<sup>31</sup>

Homegrown terrorists become who they are through a radicalization process where an individual or group adopts extreme Islamic views and justifies acts of violence, criminality, and terrorism based on those views.<sup>32</sup> Silber and Bhatt of the NYPD argue, “Participants in the 11 anti-Western terrorism plots analyzed in the report all went through four stages on the path from unremarkable to violent: Pre-radicalization, Self-identification, Indoctrination and Jihadization.”<sup>33</sup> The definitions of this process are defined as follows:

4. Pre radicalization—defined as the point of origin for individuals before they begin the progression.
5. Self-Identification—the phase where individuals are influenced by both internal and external factors where they begin to explore Salafi Islam. In this stage they begin to gradually drift away from their old identity and begin to associate themselves with like-minded individuals and adopt this ideology as their own
6. Indoctrination—the phase in which an individual increasingly intensifies his beliefs, wholly adopts jihadi-Salafi ideology and concludes, without question, that the conditions and circumstances exist where action is required to support and further the cause.
7. Jihadization—the phase in which members of the cluster accept their individual duty to participate in jihad and self-designate themselves as holy warriors or mujahedeen. Ultimately, the group will begin operational planning for the jihad or a terrorist attack.<sup>34</sup>

Another term that is frequently used according to the FBI strategic plan of 2005–2009 is the lone wolf. The plan states the most significant domestic terrorism threat over

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<sup>31</sup> Kimberley L. Thachuk, Marion E. “Spike” Bowman, and Courtney Richardson, “Homegrown Terrorism: The Threat Within,” Center for Technology and National Security Policy National Defense University, May 2008.

<sup>32</sup> Thachuk, Bowman, Richardson “Homegrown Terrorism,” 3.

<sup>33</sup> Mitchell D. Silber and Arvin Bhatt Senior Intelligence Analysts NYPD Intelligence Division, “Radicalization in the West: The Homegrown Threat,” 2007 New York City Police Department.

<sup>34</sup> Silber and Bhatt, “Radicalization in the West.”

the next five years will be the lone actor, or “lone wolf” terrorist.<sup>35</sup> This type of homegrown terrorist draws ideological inspiration from formal terrorist organizations, and remains extremely anonymous limiting law enforcement detection and prevention capabilities. Despite their unnatural planning methodology and limited resources, they can create high profile; destructive attacks that can often cause substantial infrastructure damage and create complete chaos.<sup>36</sup>

According to Dr. Peter J. Phillips, “Lone wolf terrorism is terrorism perpetrated by a person operating alone who conceives and directs his own actions outside of any formal or informal command structure.”<sup>37</sup> The Center of Technology and National Security Policy adds that homegrown terrorists range from lone wolves who wish to perpetrate an attack, to “groups who are a self-recruited, self-trained, and self-executing.”<sup>38</sup> The study continues that lone wolves have “few, if any, connections to an international conspiracy”<sup>39</sup> Lone wolves have been found to have trained with and continually maintain connections to the al Qaeda transnational networks, and may have been implanted as “sleeper cells” by al Qaeda supporters in a particular country who are bent on conducting a medium or long term terrorist mission.<sup>40</sup>

The Congressional Research Service defines lone wolf terrorism as follows:

Lone wolf terrorism involves terrorist attacks carried out by persons who (a) operate individually, (b) do not belong to an organized terrorist group or network, and (c) whose *modi operandi* are conceived and directed by the individual without any direct outside command hierarchy.<sup>41</sup>

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<sup>35</sup> Federal Bureau of Investigation Strategic Plan: 2004–2009, 27, <https://www.hsdl.org/?view&did=466149>.

<sup>36</sup> *Ibid.*

<sup>37</sup> Dr. Peter J Phillips, “Prospect Theory, Lone Wolf Terrorism, and the Investigation Process,” University of Southern Queensland–Faculty of Business, July 9, 2012.

<sup>38</sup> Thachuk, Bowman, and Richardson, “Homegrown Terrorism: The Threat Within,” 4.

<sup>39</sup> *Ibid.*, 4.

<sup>40</sup> *Ibid.*, 4.

<sup>41</sup> Jerome P. Bjelopera, “The Domestic Terrorist Threat: Background and Issues for Congress,” Congressional Research Service, May 15, 2012, 55.

The CRS study stresses this definition of a Lone Wolf is merely how one operates. Lone Wolves can create broad ideologies and use this to justify their extremist actions. Lone wolves are not plugged into the different terrorist organizations but operate under the justification of their own ideology, which has made defining this movement difficult.

The terms defined in this chapter have had several interpretations by scholars, law enforcement, and judicial officials. Domestic terrorism is more generally defined, in the terms of this thesis, as any terrorist attack that happens within the borders of the U.S. and its territories. Homegrown Terrorism is an example of domestic terrorism that is a gestated plan or plot both developed and carried out in the U.S. A Lone wolf homegrown terrorist is an individual under the definition of a Homegrown Terrorism developing and carrying out a terrorist attack completely independent from any organization by may idealize a group or organization's political agenda. This example is by far the most dangerous and difficult to prevent.

### **C. IS THERE A SERIOUS DOMESTIC THREAT?**

Since 9/11, the Heritage Foundation has kept a running tally on the domestic terrorist plots foiled by the FBI and local law enforcement agencies. A recent foiled attempt occurred in Chicago, which marks the 52<sup>nd</sup> attempt in the past 11 years. An 18-year-old American citizen named Adel Daoud attempted to detonate a car bomb outside a local bar in downtown Chicago. This individual, who was active in online Jihadi forums and chat rooms, expressed a desire to commit several other terrorist activities, which included 29 possible targets before settling on the bar.<sup>42</sup>

In May 2012, the FBI arrested five individuals who planned to blow up a Cleveland area bridge. Each suspect, being an American civilian, had developed a unique anarchist ideology without any connection to Islamist extremism. The manner in which this particular plot was foiled was no different than any other foiled Islamist extremist plot. This plot resembles many other foiled plots we see today. Understanding proper

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<sup>42</sup> Jessica Zuckerman, "Chicago Bombing Attempt Marks 52 Terrorist Plots Since 9/11," The Heritage Foundation, September 17, 2012, 55.

counterterrorism techniques and procedures may lead to the prevention of any type of terrorism, whether it is radicalized Islamist or ideological driven youth wanting to cause chaos and destruction to their surrounding municipality.<sup>43</sup>

As international travel becomes more popular and easier for all citizens to utilize, the same can be said for would-be terrorists who have no previous indications of being a threat. This allows would-be terrorists to travel abroad and shortens the radicalization period. The global operating environment for terrorist networks has enabled the homegrown terrorist to become more appealing to al-Qaeda and other terrorist networks. Homegrown terrorist actors can create a bridge between the U.S. and the other regions of the world where terrorist networks are in control. The homegrown terrorist located in the United States becomes the puppet at the hands of a terrorist organization located halfway around the world. This was evident during the September 2009 foiled plot of Najibullah Zazi in his attempt to bomb the New York City subway system. Zazi purchased large quantities of chemicals used to make a TATP bomb, the same type used in the London Underground bombing in 2005. Zazi traveled to Pakistan where he received training in bomb making and instruction on how to carry out the attack. A senior al-Qaeda leader in Pakistan has been found to be the orchestrator of this plot.<sup>44</sup>

FBI Director Robert Mueller stated in September 2006 that he saw a rising threat from homegrown terrorists. Reflecting on numbers, he said, “We have certainly hundreds . . . But if you’re looking at terrorism across the board . . . we have several thousand cases.”<sup>45</sup>

Although several success stories have risen with the efforts of state and local law enforcement, several domestic terrorists have accomplished their goal of causing terror on U.S. soil. Recent attacks occurred on August 5, 2012, when Wade Page opened fire on

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<sup>43</sup> Jessica Zuckerman, “Foiled Anarchist Plot Shows Why All-Threats Approach Is Needed,” The Heritage Foundation, May 1, 2012.

<sup>44</sup> James Jay Carafano, Steven Bucci, and Jessica Zuckerman, “Fifty Terror Plots Foiled Since 9/11: The Homegrown Threat and the Long War on Terrorism,” The Heritage Foundation, April 25, 2012, <http://www.heritage.org/research/reports/2012/04/fifty-terror-plots-foiled-since-9-11-the-homegrown-threat-and-the-long-war-on-terrorism>.

<sup>45</sup> Thachuk, Bowman, and Richardson, “Homegrown Terrorism: The Threat Within,” 33.

the congregation of a Sikh temple in Oak Creek Wisconsin, killing six innocent civilians and wounding three others. Page committed suicide after the attack, but was found to have ideological motivation toward the white supremacist movement. On August 15, 2012, Floyd Corkins shot and wounded a security guard in the lobby of the family research council's Washington, D.C. office. Floyd carried a box of ammunition and a bag full of Chick-fil-A sandwiches. According to media reports Corkins stated, "I don't like your politics," before he began the attack.<sup>46</sup>

Then, on August 16, 2012, Brian Smith, Kyle Joekel, and seven others shot and wounded an off-duty deputy while working as a security guard at an oil refinery station in Louisiana. After the attack two other deputies responded to a nearby trailer park where the vehicle associated with the shooting was spotted. The occupants of the trailer ambushed the police officers and killed them. The individuals responsible for the shootings belonged to the sovereign citizen movement where other members have been under investigation for weapon offenses and previous threats to law enforcement officers around the country.<sup>47</sup>

Although Domestic Terrorist attacks have caused nowhere near the devastation of the attacks on 9/11, Timothy McVeigh's bombing of the Alfred P. Murrah Federal Building in Oklahoma City in 1995 claimed 168 lives while injuring 500. It ranks as the second deadliest attack on U.S. soil following the attack on the Twin Towers. Many law enforcement agencies view domestic terrorism as a prominent concern. Deputy Police Chief Michael P. Downing of the Los Angeles Police Department was quoted in the CRS report on Domestic terrorism as describing violent Islamists such as Al Qaeda, Hezbollah, and Hamas as Los Angeles's main terrorist threats "along with three other terrorist categories: black separatists, white supremacist/sovereign citizen extremists, and animal rights terrorists."<sup>48</sup>

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<sup>46</sup> Scott Stewart, "Domestic Terrorism: A Persistent Threat in the United States," Stratford Global Intelligence, August 23, 2012.

<sup>47</sup> Stewart, "Domestic Terrorism."

<sup>48</sup> Bjelopera, "The Domestic Terrorist Threat," 38.

The CRS study on Domestic Terrorism found that there have been 25 incidents of domestic attacks that fall under the definition of Domestic Terrorism. The study also found that a large number of these attacks do not use extreme tactics used by the Jihadist terrorist such as bombings or airplane attacks, with the exception of the suicide attack by Andrew Joseph Stack III. In February 2010, Stack flew his airplane into the IRS building in Austin, Texas, killing one other person and injuring many more in an attempt to defy his anarchist ideology.

A study by the New America Foundation and Syracuse University's Maxwell School of Public Policy examined post 9/11 cases of Americans or U.S. residents convicted or charged with terrorist activity. The study found 192 American civilians and U.S. residents had fallen in the category of either convicted or charged with some form of Jihadist terrorist activity between 2001 and 2011. The report also found that only four of the homegrown jihadist extremist plots developed into a successful attack, resulting in a total of seventeen deaths. Included in this number is the Ft. Hood, Texas, shooting by Maj. Nidal Malik Hasan who killed thirteen and wounded 29.

These recent successful and foiled plots of domestic terrorism indicate there is a high level of threat facing American today. The National Strategy of Counterterrorism concludes despite the successes in our counterterrorism efforts, the U.S. continues to face a significant terrorist threat from al-Qa'ida, its affiliates, and its adherents both overseas and domestic.<sup>49</sup> With these continued threats facing America, we cannot stop enhancing our law enforcement capabilities.

#### **D. WHY LOCAL LAW ENFORCEMENT?**

After 9/11, local law enforcement and municipalities began to develop their own way of combating the growing threat of terrorism. These communities feel their needs are far too diverse for the federal government to handle effectively; local forces are far better attuned to local sensitivities and requirements.<sup>50</sup> What's more, the federal decision-

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<sup>49</sup> Executive Office of the President, *The National Strategy For Counterterrorism*, Washington D.C., June 2011.

<sup>50</sup> Matt Mayer, "Effective Counterterrorism: State and Local Capabilities Trump Federal Policy," The Heritage Foundation, June 3, 2009.

making process has been criticized as being insufficient, inefficient, inept, slow, and unduly bureaucratic. Community members trust their local and state law enforcement officials, who are essentially part of the community and who have a finer sense of the people, time, and place. For all the federal-level planning and discussion, local agencies have taken significant steps to expand and redefine their roles and missions in counterterrorism.

The U.S. government has taken a clearly defined and more active role in federalizing the homeland security mission, but a number of experts have criticized this approach. A report from the Heritage Center for Data Analysis states, “Not only is this approach constitutionally incorrect, but states themselves could do the job better.”<sup>51</sup> The Federal resources are physically too far apart to adopt any type of first response or to secure rapid responses. The needs of the different localities are too diverse for the federal government to handle, and the decision making process by the hands of the Federal Government has been criticized as being inept. The responsibility should be placed where the issue can be handled more efficiently and where proper leadership can effectively decide what’s best for that area. Community members trust their local and state law enforcement members due to the realization that they are essentially part of the community. Because they live within that community, local law enforcement officers develop gut instincts that give them the sense of what’s wrong.

Since the disastrous moments of 9/11, the federal government has created over 260 new and reorganized federal groups, expanded the intelligence efforts throughout the country to a budget of over \$75 billion, and awarded hundreds of thousands of secret clearances to military, civilians, and private contractors, some estimating of over 850,000 personnel.<sup>52</sup> However, terrorism plots continue to unfold within the United States. In 2009, Army Psychiatrist Nidal Malik Hasan attacked several of his fellow soldiers at Fort Hood killing 13 and injuring 29, and Umar Farouk Abdulmutallab (the Underwear Bomber) nearly succeeded in his attempt to blow an American jetliner out of the sky in

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<sup>51</sup> Matt A. Mayer, “Effective Counterterrorism: State and Local Capabilities Trump Federal Policy.” Heritage Foundation, June 3, 2009, 1.

<sup>52</sup> Judith Miller, “The Shield We Need: The best defense against terrorism is not in D.C.—it’s the NYPD model,” New York Daily News, July 25, 2010.

route to Detroit, Michigan. In 2010, Faisal Shahzad, a naturalized Pakistani-American attempted to detonate a car bomb at rush hour in Times Square, and recently three packages detonated in two different Maryland state buildings causing several injuries.<sup>53</sup> The determination of Islamist extremist to bring death and chaos to the American people has created and revived a serious debate over the effectiveness of how the U.S. conducts the “Homegrown” war on terror and whether these efforts should be restructured. Without proper legal definitions of the homegrown terminology and domestic terrorism, law enforcement agencies continue to have problems understanding who ultimately is responsible.<sup>54</sup>

The current job of detecting domestic terrorism falls to the responsibility of the FBI and their current establishment of the Joint Terrorism Task Forces (JTTF). Judge Posner from the United States Court of Appeals for the Seventh Circuit in Chicago warns the FBI, however, is dominated and overwhelmed by the criminal investigators responsible for collecting information that bring criminal organizations and individuals to justice. Due to the overwhelming responsibility the FBI has, the organization has been unable to transform itself into a pure intelligence gathering agency.<sup>55</sup>

Judge Posner states in Judith Miller’s article, “The Shield We Need,” that “The Bureau conceives intelligence as merely an adjunct to arrest and prosecution, and measuring success by number of arrests.”<sup>56</sup> He argues the FBI continually “jumps the gun” by arresting terrorist suspects as soon as the organization has gathered enough evidence to convict them of providing “material support” to terrorists or another lesser crime, rather than continuing its investigation until the full scope of a terrorist plot has been revealed.<sup>57</sup>

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<sup>53</sup> “UPDATE 3-Packages detonate in two Maryland state buildings,” Reuters, January 6, 2011, <http://www.reuters.com/article/2011/01/06/usa-maryland-explosions-idUSN0613354420110106>.

<sup>54</sup> Judith Miller, “On the Front Line in the War on Terrorism,” City Journal, Summer 2007.

<sup>55</sup> Richard A. Posner, “Our Domestic Intelligence Crisis,” The Washington Post, December 21, 2005.

<sup>56</sup> Judith Miller, “On the Front Line.”

<sup>57</sup> Ibid.

Posner's argument provides support for the view that more intelligence collection and handling of counterterrorism efforts should be conducted at the local level. However, no matter who conducts the job of counterterrorism within the borders of the United States, a clear definition must be established that reflect the responsibilities of all the members involved. After ten years of the most deadly terrorist attack our nation has faced, we still have yet to define how to properly handle this threat.

The primary question state and local law enforcement need to answer is how they can better prepare themselves to become more resilient from a terrorist attack. There is one organization that has created a model, which different cities and states can begin to follow and adopt to become more resilient in the event of a terrorist attack within their municipality. This chapter has defined domestic terrorism as it has been seen during the post 9/11 era and has shown a progression of successful and foiled attacks both by domestic jihadist and non-jihadist who follow their own ideological agenda and wish to cause terror. Finally, this chapter has shown why local and state law enforcement is better suited to defend against this rising threat. With the framework laid, this thesis will transition into the case study of the NYPD. The second chapter will analyze what the leading law enforcement agency in the counterterrorism world has created and begin to answer what other municipalities can learn from the NYPD model against fighting the domestic terrorism threat and what should be handled at the federal level.

### **III. THE NYPD MODEL: THE GOOD, THE BAD, AND THE UGLY**

#### **A. INTRODUCTION**

The devastating events of 9/11 forced the NYPD to become the country's most aggressive domestic intelligence agency. Police Commissioner Ray Kelly took over the NYPD, hiring David Cohen (a retired CIA official) as the NYPD's first Intelligence Chief. Both Kelly and Cohen knew their organization could not solely rely on the federal government to prevent terrorism in New York City. They instilled the mindset of not relying on the federal government for help to all of their employees and consistently spoke that New York was their city and they had to do whatever means necessary to protect it. The NYPD then created the first local law enforcement intelligence and counterterrorism division to include undercover CT agents with numerous amounts of informants representing different ethnicities. They also hired intelligence analysts and created a community mapping effort, a terrorism cyber unit, a small army of linguists, and overseas liaison analysts.<sup>58</sup>

This chapter analyzes the case study of the NYPD and the model they created after 9/11 and begins to emphasize aspects of the model that can be learned and shared through different communities and municipalities around the country, which this thesis refers to as "the Good." This chapter also highlights examples of what the NYPD has done that should not be handled by local law enforcement but rather at the federal level referred to as "the Bad," as well as methods that have been heavily criticized and scrutinized by the civil right communities which have failed to produce any leads to terrorism "the Ugly."

#### **B. THE GOOD**

With the NYPD becoming the first local municipality to establish an intelligence department, the leadership felt they needed some help in order to get the department up

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<sup>58</sup> Judith Miller, "Terror Target: Manhattan," *The Wall Street Journal*, June 19, 2010, 2.

on its feet. Cohen utilized his contacts over at the Central Intelligence Agency to acquire Lawrence Sanchez to begin assisting the department's establishment. Sanchez worked as the CIA liaison to the NYPD in order to step up cooperation with law enforcement on counterterrorism for nearly a decade. Cohen began interviewing perspective NYPD officers and created newly defined jobs within the new department. Once the jobs were assigned he began directing their efforts by mentoring and teaching these individuals in the art of gathering information.<sup>59</sup>

Utilizing the available resources within the NYPD and the vast ethnicity within the department, they began to dispatch officers to Pakistani neighborhoods and instructed those officers to increase the frequency of minor traffic stops either for speeding, broken tail lights, or running stop signs. These traffic stops gave the police an opportunity to search for warrants that were outstanding or unusual behavior. If this was noticed and an arrest was made, the department could then utilize this as leverage to entice that individual to become an informant. Informants are the essential backbone of any intelligence operation. With help from the CIA, the NYPD understood the necessity of this concept and capitalized on the efforts.<sup>60</sup>

Undercover agents are out in the field all over the country performing similar mission as the NYPD, except they are not experiencing the success that the NYPD has. This is based on the Intelligence analyst's ability to read through the lines of information and see things a normal police officer would not see. With the establishment of the NYPD's intelligence division, Cohen knew coming from the intelligence field in the CIA, without people to translate the skills of the officer's information out in the field, they could simply miss something huge. He knew he needed people who were smart and had a grasp of the cultural understanding of the populace within his jurisdiction and the suspects he was meant to be pursuing.<sup>61</sup>

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<sup>59</sup> "With CIA Help."

<sup>60</sup> Ibid., 3.

<sup>61</sup> Alan Feurer, "The Terror Translators," The New York Times, September 17, 2010, 2.

The importance of having intelligence analysts is crucial to the intelligence process. One intelligence detective from the NYPD's intelligence division stated to a New York Times reporter that, "When we first started we didn't even know they prayed on Fridays."<sup>62</sup> Analysts are able to inform detectives and enhance their credibility when dealing with potential sources out in the field. They are able to dissect the information and give knowledge to the officers out in the field in order to improve their duties as undercover agents or those investigating a lead.

This model of the intelligence process proved to be extremely beneficial in the apprehension of Faisal Shahzad, who attempted to blow up Times Square using a Vehicle Born Bomb. Within an hour of the discovery of the car, the analytical team began assessing the situation and brainstorming leads to be pursued, while detectives out in Times Square looked for clues and evidence. The analytical team began pondering where the material for the bomb may have been attained and what the sticker on the timing device meant.<sup>63</sup>

The team created an eight-page report for Cohen within 24 hours, which stated the "Evolving and dynamic terrorist group. Tehrik-e-Taliban of Pakistan (T.T.P.) was probably behind the failed attack."<sup>64</sup> The Federal Government and later Shahzad himself also confirmed this information during the June 21, 2010 guilty plea in federal court.<sup>65</sup>

Coming from an Intelligence background, Cohen knew the exact caliber an individual needed for a specific job. He understood the need for productive intelligence analysts. Therefore, he hired those of the highest and smartest skill sets coming from Ivy League schools such as Harvard, Columbia and Yale. He ensured he had a wide range of sophistication in international academia that covered the scope of potential extremist

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<sup>62</sup> Alan Feurer, "The Terror Translators," 2.

<sup>63</sup> Ibid., 2.

<sup>64</sup> Ibid., 3.

<sup>65</sup> Attorney General, "Faisal Shahzad Pleads Guilty in Manhattan Federal Court to 10 Federal Crimes Arising from Attempted Car Bombing in Times Square," Department of Justice Office of Public Affairs, Monday, June 21, 2010, 10-721, <http://www.justice.gov/opa/pr/2010/June/10-ag-721.html>. The press release by the Department of Justice gives a full account of the events that took place during the early planning stages of the foiled plot and up to his arrest. The website also defines the federal charges against Faisal Shahzad and the maximum prison term for all ten counts.

living in his jurisdiction. Living in New York City entails a large range of nationalities, which is why his analytical specialists speak languages that ranged from Urdu, Farsi, Russian, Arabic, and Hebrew and study areas which included, South Asia, Somalia, Yemen, Turkey, Lebanon, Israel, Iran, and the study of Homegrown Terrorist Groups.<sup>66</sup>

The analysts and detective relationships have proven to be effective and conducive relationship. The relationship between the two entities is said to be closer than the relationships seen within the Federal Bureau of Investigation, according to statements by Mr. Rascoff, who at the time ran the analytical Unit. He claimed that the FBI's detectives were just as educated as the analysts they worked with, saying they do the same job except one has a gun and kicks down doors and the other sits behind a desk. He states in the Police Department there is an, "Educational, experimental but not intellectual gulf that can paradoxically bring the sides together."<sup>67</sup>

The reliance on having analysts at the call for intelligence detectives is a crucial and widely successful component. According to the New York Times, one detective states, "Whenever I have problems, I call my analysts," and "They're from a different world... They're educated I'm not. My education is locking up bad guys."<sup>68</sup>

Analysts have the knowledge to distinguish an individual's ethnicity simple by knowing the cultural aspects of the person either by the facial features and beards to the length and style of the clothing. This can prove immensely valuable to a detective or officer patrolling the streets. Without that specific knowledge, a person can easily be mistaken for a different ethnicity and potentially disrupt an operation.

These analysts previously worked in high visible jobs such as the United Nations, State Department, the Defense Intelligence Agency, and the New American Foundation. Mr. Silber, who was hired to run the team in 2008, left the financial world of Carson Group and Evolution Capital because 9/11 made him want "to get into the fight."<sup>69</sup> He

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<sup>66</sup> Alan Feurer, "The Terror Translators," 3.

<sup>67</sup> Ibid., 4.

<sup>68</sup> Ibid., 4.

<sup>69</sup> Ibid., 3.

later attended Columbia's School of International and Public Affairs and studied the regulation of terrorist money transitioning from corporate finance to terrorist finance.

The Cyber teams within the Intelligence division have a unique and essential element to the intelligence department and counterterrorism teams within the NYPD. Specifically, during the investigation of the "Times Square car bomb," cyber teams were able to determine that a You Tube account had been set up 24 hours before the attack had occurred, and they were able to analyze the video. They identified the leader of the group (T.T.P.) stating they had penetrated the United States. They also have the ability to search the Internet using certain phrases then filtering the results through trained eyes to notice anything obscure.<sup>70</sup>

### **C. THE BAD**

The NYPD learned after 9/11 that terrorist activity does not always originate in city where the attack occurs. Planning for the attack may occur overseas or even in a different state. In response the department decided to extend intelligence collection and mapping techniques beyond the scope of New York City. Cohen established an undercover squad called the Special Services Unit (SSU) that operates in states such as New Jersey, Pennsylvania, Connecticut, and Massachusetts. These officers cannot make any arrests within that jurisdiction and if something goes wrong, those officers can be held personally liable. The NYPD feels the risk is worth it. This was proven a success during the undercover operation in New Jersey that ultimately led to the arrest and conviction of Mohamed Mahmoud Alessa and Carlos Eduardo Almonte for attempting to fly to Somalia to join the terrorist group al-Shabab in order to learn and join the fight to kill Americans.<sup>71</sup>

In 2010, the SSU was conducting surveillance operation out of a hotel in Newark New Jersey. These undercover officers and informants eavesdropped in Muslim cafés and monitored sermons, even when there was no evidence of a crime. The result was that many innocent business owners, students, and others were cataloged in police files. The

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<sup>70</sup> Ibid., 2-3.

<sup>71</sup> "With the CIA Help," 7.

hotel management was extremely suspicious of the activity in the rooms where the undercover officers were staying. They called the Newark police station and informed them of the concerns coming from the rooms. When the Newark Police Department knocked on the door, they found several NYPD officers with surveillance equipment, computers, and other monitoring devices.<sup>72</sup>

The NYPD asserted that the operations were lawful and necessary to keep the city safe from the threat of a terrorist attack. New York Mayor Michael Bloomberg says the “NYPD can gather intelligence anywhere in the country it wants and is not required to tell local authorities.”<sup>73</sup> NYPD lawyers say jurisdictional lines do not bind them because they are just collecting intelligence, not making arrests or otherwise acting as police.<sup>74</sup>

The NYPD was later found not to have violated any New Jersey laws when they conducted surveillance of Muslim businesses, mosques and student groups. The N.J. Attorney General Jeffrey Chiesa and his office conducted a three month long investigation that concluded the NYPD’s operations violated no state laws, either civil or criminal. The New Jersey Muslims, according to an article published by the Associated Press, have no state recourse to stop the New York Police Department from infiltrating student groups, videotaping mosque-goers, or collecting their license plate numbers as they pray. They claim they will consider all legal options, including renewed appeals for action by the U.S. Justice Department. A federal civil rights lawsuit will be considered.<sup>75</sup> Although the NYPD was found to have not violated any New Jersey Laws, they lost significant respect from the FBI, New Jersey officials, and Muslim activists. Counterterrorism efforts rely significantly on sharing of information and communication among such a broad facet of law enforcement entities. The lessons learned from the 9/11-commission report state there must be stronger coordination between the different entities

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<sup>72</sup> Ibid., 7.

<sup>73</sup> Samantha Henry, “NJ Official: NYPD Muslim Surveillance,” Associated Press May 24, 2012, <http://bigstory.ap.org/content/nj-official-nypd-muslim-surveillance-legal>.

<sup>74</sup> Henry, “NJ Official.”

<sup>75</sup> Ibid.

including the FBI and CIA. This does not mean the NYPD can conduct counterterrorism efforts in secret without any cross coordination.

There are several reasons why the NYPD surveillance activity in New Jersey was wrong. First, not only does it raise a lot of question of the civil liberties across America, it distinctly violates the civil liberties of the Muslim businesses they were spying on. Second, in doing this operation in secrecy without any cross coordination, it significantly makes it harder for other organization to do their job. Instead of working together to figure out if there is a legitimate threat from the organizations that were being spied on, now the FBI and the New Jersey law enforcement personnel have to stop what they are doing in order to figure out why the NYPD is operating out of their jurisdiction and whether it is legal. Overall, this makes everyone's job more difficult.

The FBI has weighed in critically on the New Jersey Surveillance controversy, where NYPD officers were found conducting surveillance operations on Muslims inside the state without notifying New Jersey officials. New Jersey's FBI chief, Michael Ward, also has been extremely critical of the NYPD for not conducting the operations within the umbrella of the Joint Terrorism Task Force (JTTF), to which the NYPD belongs. He said, "The actions undermined the bureau's own efforts by sowing distrust of authorities among Muslims and weakened national security."<sup>76</sup> The JTTF is an organization with partnerships among the different law enforcement agencies throughout the country that are charged with taking action against and preventing a terrorist activity. The FBI leads the task force with participation from local municipalities and other components that fall under the Department of Homeland Security including the Coast Guard, Customs, and Border Control.<sup>77</sup>

Since the NYPD was being allowed to conduct primarily intelligence surveillance in other municipalities and states throughout the country, the NYPD decided to extend their modes of surveillance and widen their intelligence capabilities. Cohen decided to establish the Intelligence Division's International Liaison Program (ILP) that would

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<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

office NYPD officers in eleven foreign capitals. The ILP's main mission would be to gather information and gain perspectives around the world. They would act as the eyes and ears of the NYPD to access international intelligence.<sup>78</sup>

The ILP has been seen as a rogue intelligence division with no oversight and an outrageous amount of funding. While NYPD officers are stationed in the 11 foreign capitals, they work for no one but the NYPD. They operate outside the authority of top U.S. officials abroad including American ambassadors and CIA station chiefs, who operate as the head of U.S. intelligence in foreign countries. The NYPD officers are not official members of the country team, they do not have the top-secret clearances and equipment to receive or send classified information. The NYPD officers travel on tourist passports. They live in hotels or apartments. Their out of channel status makes them virtually useless to other intelligence or police agencies, both U.S. and foreign. The argument is being made that the duties undertaken by the NYPD's ILP fall beyond the responsibilities of local law enforcement and their presence becomes more of a hindrance than any type of assistance. The NYPD, in this case, continues to make the job of law enforcement personnel responsible for this type of operation much more difficult. Not only are the NYPD personnel completely operating out of their jurisdiction, but also they cannot provide any useful assistance. Their hindrance on the personnel attempting to do their job does more harm than good.<sup>79</sup>

Funding for the ILP has also started a series of debates. The NYPD refuses to disclose how much if any of the intelligence and counterterrorism budget of \$178 million goes into the funding of the ILP. The New York City Council members, who are ultimately responsible for police oversight, know very little about the ILP, especially its budget. During an interview with the Washington Post, Peter Vallone Jr., a member of the council, states, it is fair he does not know much, "But my main concern is their use of taxpayer funds here in NYC."<sup>80</sup> Leonard Levitt claims, "There appears to be no

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<sup>78</sup> "With CIA Help," 7.

<sup>79</sup> Jeff Stein, "NYPD Intelligence Detectives go their own way," Washington Post, November 10, 2010.

<sup>80</sup> Jeff Stein, "NYPD Intelligence Detectives go their own way."

monitoring of the NYPD, a municipal agency that in its anti-terrorism measures, has become a mini-CIA,” and Thomas Fuentes, who headed the FBI’s International Operations from 2004 until 2008 calls the ILP, “A complete waste of money... But it looks great, looks really terrific.”<sup>81</sup>

According to the Washington Post interview with Thomas Fuentes, moments after the 2005 London subway bombings, “Several New York police officers ran into the tunnel and showed their badges as if they had official approval to participate in the investigation, and they didn’t.”<sup>82</sup> The cops went back out of the tunnel, called the offices of the NYPD intelligence division. Mayor Bloomberg and Police Commissioner Ray Kelly promptly held a press conference describing the attack in London including what had gone on in the subway and how they’re going to protect our subway and populace from a similar attack if the threat were exposed.<sup>83</sup>

Although this may look good for the NYPD and the people of NYC, this is ultimately bad for everyone else. An investigation takes time and involves detailed analyses. Evidence must be collected and reports must be submitted and reviewed before releasing to the press. These individuals had no need to be at this crime scene 3,500 miles from home. The release of this information back to their offices, which was immediately released to the public by the mayor, only caused more confusion and headaches for the individuals legitimately responsible for collecting evidence and solving the crime. The NYPD ultimately did more harm than good stepping on the toes of the individuals trying to perform their assigned duties. The U.S. has personnel assigned to accomplish these goals of analyses during overseas terrorist events. The NYPD is not and should not be considered one of those personnel.

The NYPD has also been criticized for acting alone in the absence of their FBI counterparts. In November 2011, Jose Pimentel, also known as Muhammad Yusuf, was in the midst of completing a powerful pipe bomb project that was designed to kill

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<sup>81</sup> Ibid., 2.

<sup>82</sup> Ibid., 3.

<sup>83</sup> Ibid., 1–4.

American troops, particularly those coming home from Iraq and Afghanistan. The NYPD completed the raid without the help of the FBI, stating they could not wait for the bureau to finish their assessment. The NYPD officials claimed that the FBI initially stated, “Pimentel didn’t have the predisposition or the ability to do anything on his own.”<sup>84</sup>

Instead of law enforcement an agency acting independently, the argument has been made for a greater cross coordination between all the agencies both federal and state. Since 9/11, there have been many initiatives to assist state and local law enforcement to become more involved and better informed of what is happening in their community. One of the biggest projects in this area is the establishment of state and local intelligence fusion centers. The Global Intelligence Working Group began seeing the quality of work accomplished by fusion centers and local agencies and thus created a series of recommendations and practices for law enforcement. These practices gave law enforcement information sharing relationships with the private sector and public safety issues revolving around homeland security and defense.

This viewpoint supports the argument for a greater coordination effort between federal and state enforcement and suggests intelligence collection and counterterrorism efforts should be equally employed. The NYPD continues to decline the offer of joining the fusion center team in order to continue operating under the relaxed guidelines.<sup>85</sup> This is another example of New York City’s “go it alone” attitude. The refusal to join the national fusion network not only affect the NYPD for acquiring valuable Intelligence and analyses from a national perspective, but also it affects agencies and other states nationally from understanding what is occurring in New York. According to the recommendations by Dr. James E. Steiner, the State of New York should “Work with NYPD intelligence (staffed at roughly 500 officers) in its role as the primary developer of CT intelligence regarding New York City. Expand on NYC finished intelligence products to address implications for the entire state.” What this mission should state is expand on

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<sup>84</sup> Scott Erickson, “NYPD Reacts to Lone-Wolf Terror Threat, With or Without the FBI,” The Foundry, The Heritage Network, November 22, 2011, <http://blog.heritage.org/2011/11/22/nypd-reacts-to-lone-wolf-terror-threat-with-or-without-the-fbi/>.

<sup>85</sup> United States Department of Justice, “Fusion Center Guidelines: Developing and Sharing Information and Intelligence in a New Era,” 2008, 6.

the New York City finished products for the entire nation in a cross collaborative effort to share intelligence.<sup>86</sup> Until counterterrorism effort is a mutually shared concept between federal, state, and local entities, someone will always be in the dark and unaware of what may actually be occurring in their jurisdiction.

#### **D. THE UGLY**

The NYPD is no stranger to controversy, especially when it comes to the issue of civil liberties. During the 1950s and the 1960s, protest and civil disturbance came along with increasing crime on the streets of the city. The tensions of race riots were first seen in Harlem, according to the Digital Library of Civil Rights. An estimated eight thousand residents of Harlem launched a large-scale riot in the year 1964 in response to the shooting of a fifteen-year-old boy by the NYPD. The destruction of this riot included fires, breaking windows, and looting of local businesses.<sup>87</sup>

As part of its efforts to get ahead of the unrest and criminality, the NYPD decided to monitor students, civil rights groups, and suspected Communist sympathizers. The spying on these different organizations brought several arrests, including the apprehension of 21 members of the Black Panther Party, allegedly for a conspiracy to blow up several police stations and department stores. At trial, the members were all acquitted after less than two hours of jury deliberation. Worse, the proceedings revealed several illegal actions by the NYPD, including the surveillance of not just the Black Panthers but civic organizations, civil-rights groups, education reformers, and religious associations. The NYPD also kept intelligence files on these groups and their members, whether or not they engaged in illegal acts.<sup>88</sup>

As a consequence of this trial, in 1971, Barbara Handschu was a lead plaintiff in a class action suit in New York District Court, *Handschu vs. Special Services Division* (605

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<sup>86</sup> Dr. James E. Steiner, "Needed: State-level, Integrated Intelligence Enterprises" Improving Homeland Security at the State Level, Studies in Intelligence Vol. 53, No. 3 (Extracts, September 2009) 9.

<sup>87</sup> "New York Race Riots," Civil Rights Digital Library, April 30, 2012, [http://crdl.usg.edu/events/ny\\_race\\_riots/?Welcome](http://crdl.usg.edu/events/ny_race_riots/?Welcome).

<sup>88</sup> Chris Hawley, "Barbara Handschu Likens NYPD Spying On Muslims To Spying On Free Speech Advocates," Huffington Post, November 11, 2011, [http://www.huffingtonpost.com/2011/11/17/in-nypd-spying-a-yippie-l\\_n\\_1099479.html](http://www.huffingtonpost.com/2011/11/17/in-nypd-spying-a-yippie-l_n_1099479.html).

F.Supp. 1384, affirmed 787 F.2d 828). Handschu was a New York attorney who had taken to defending radical clients such as the Black Panthers and the Chicago Seven after her participation in a housing-rights demonstration in 1969. She certified the class of plaintiffs, which included Abbie Hoffman and Jerry Rubin, and brought the suit on First Amendment grounds: The NYPD surveillance, undercover, and intelligence activities violated the people's right to associate and protest, according to the suit, not least because they did not target criminals or even potential criminals. And lastly, the Police Department was prohibited from investigating and conducting surveillance operations on political and religious groups unless there was "specific information" that linked the group to a crime that had been committed or was about to be committed.<sup>89</sup>

The NYPD plaintiffs and the Handschu team reached a settlement to establish surveillance rules and oversight by a three-panel member. The Handschu Guidelines prohibited the NYPD from starting a new surveillance file based on the religion or political nature of a person or group. The guidelines also banned NYPD detectives and officers from collecting and writing notes on political and religious groups and their activities.<sup>90</sup>

In the wake of 9/11, New York law enforcement, which had chafed under the Handschu Guidelines, sought relief from the restrictions; NYPD Deputy Intelligence Commissioner David Cohen asked a federal judge, the same Judge Charles S. Haight who handed down the original 1985 decision, to remove or at least significantly loosen these guidelines. Cohen argued that "The FBI was changing its rules to respond to 9/11, the NYPD must do so, too."<sup>91</sup> After 9/11, the Patriot Act was established that endowed many provisions of law enforcement agencies, specifically the Federal Bureau of Investigation with a greater amount of freedom in surveillance and investigation. Special intelligence courts authorized the collection of data from roving wiretaps, relaxed rules

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<sup>89</sup> NYPD Testimony on Muslim Surveillance Operation Highlights Futility of Spying on Innocent People American Civil Liberties Union, August 21, 2012, <http://www.aclu.org/national-security/nypd-testimony-muslim-surveillance-operation-highlights-futility-spying-innocent>.

<sup>90</sup> Hawley, "Barbara Handschu Likens NYPD Spying on Muslims."

<sup>91</sup> "With CIA Help, NYPD Built Secret Effort to Monitor Mosques, Daily Life of Muslim Neighborhoods," Associated Press, August 24, 2011, 3.

for gaining access to electronic communications and student records by subpoena, and enlarged the availability of information from grand jury investigations by law enforcement authorities. According to Manas Mohapatra, “The roving wiretaps enlarged the availability of information from grand jury investigations, and the relaxed rules for gaining electronic communications and student records allowed the eavesdropping and so-called ‘sneak and peek’ searches of private governmental premises.”<sup>92</sup>

In the game of fighting against a terrorism plot, waiting for an indication of a crime may be too late, the argument ran. Law enforcement needed more investigative latitude. Reluctantly, but ultimately swayed by the urgency of the department’s tasks, Judge Haight relaxed the Handschu Guidelines in 2003.<sup>93</sup> The new set of rules, which became known as the Modified Handschu Guidelines, did away with the three-member panel, which conducted the oversight on the NYPD’s surveillance activities. The modified guidelines also gave Cohen the ability to act alone and authorized investigations for a year at a time. He was also authorized to conduct undercover operations for four months at a time no matter what the religious affiliation of the member or group belonged to. The “specific information” rule, which was required in acting on a future crime about to be committed, was then revised to say, “Only that facts should ‘reasonably indicate’ a future crime.”<sup>94</sup> Handschu tried vainly to have her name disassociated from what remained of the guidelines.<sup>95</sup>

With a new and roomier set of regulations to fight the battle against terrorism, Cohen and Police Commissioner Ray Kelly decided to expand their organization. Cohen began creating secret squads to perform surveillance operations in Muslim neighborhoods and assigned undercover officers to patrol specific zones, established by Cohen, to look for potential suspicious activity. Cohen began using the benefits of a multinational police force to his advantage. He began placing undercover officers in ethnic communities and

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<sup>92</sup> Manas Mohapatra, “Learning Lessons from India: The Recent History of Antiterrorist Legislation on the Subcontinent,” *The Journal of Criminal Law and Criminology* (Northwestern University), Vol. 95, No. 1 (Autumn 2004), 318.

<sup>93</sup> “With the CIA Help.” 3.

<sup>94</sup> Hawley, “Barbara Handschu Likens NYPD Spying on Muslims.”

<sup>95</sup> *Ibid.*

instructed those officers to blend in with daily life. Palestinian-American officers were placed in Palestinian neighborhoods and Pakistani-American officers were placed in Pakistani neighborhoods. These officers frequently visited popular establishments, observing and looking for suspicious activity. If these officers found an area that was acting out of the normal spectrum of the confines of their establishment, such as a beauty salon selling chemicals or an Internet café with computers that have a browsing history of radical websites, those establishments would be deemed as a Hot Spot. Cohen referred to this operation as “raking the coals for Hot Spots.”<sup>96</sup>

This tactic was believed to have led authorities to the arrest and conviction of Shahawar Matin Siraj, who was charged and convicted of planning an attack on New York’s subways. It has also aroused new controversy—including some from old players. Both Barbara Handschu and Judge Haight have taken their objections to the new measures to the public. Handschu turned up at protests against the war in Iraq in 2005 and has spoken frequently to the press about the deterioration of civil liberties amid unnecessarily permissive police policy. That same year, Judge Haight issued a 51-page order, admonishing the NYPD to take a lighter touch with the First Amendment or risk contempt charges, even under the modified Handschu Guidelines.<sup>97</sup>

After six years of operating under the Modified Handschu Guidelines, The NYPD again found itself back in Federal Court. This time with no evidence that led to any convictions or leads. During a deposition in June 28, 2012, The Assistant Chief Thomas Galati testified that none of the dialogues overheard during the spying campaign led to a case. According to the Associated Press, Galati testified, “Related to Demographics, that information that has come in has not commenced an investigation.”<sup>98</sup> In his testimony, Galati referred to a tip collected from the Demographic Unit that ultimately led to a case against a bookstore clerk who planned to bomb the Herald Square subway, that there was

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<sup>96</sup> “With CIA Help,” 4.

<sup>97</sup> Robin Finn, “Making Police Obey the Rules That Bear Her Name,” *The New York Times*, February 23, 2007, <http://www.nytimes.com/2007/02/23/nyregion/23lives.html>.

<sup>98</sup> Adam Goldman and Matt Apuzzo, “NYPD: Muslim spying led to no leads, terror cases,” *Associated Press*, August 21, 2012. <http://www.ap.org/Content/AP-In-The-News/2012/NYPD-Muslim-spying-led-to-no-leads-terror-cases>.

no evidence from the demographic team leading to the arrest. The attorney who filed the Handschu case and questioned Galati during the deposition, Jethro Eisentein, claims he plans on returning to court soon and demanding the Demographic Unit be shut down. Members of Congress are beginning to question the tactics of the NYPD, asking the Justice Department to investigate the NYPD. However, John Brennan, who is President Obama's lead Counterterrorism adviser, says confidently, "The NYPD's activities are lawful and have kept the city safe."<sup>99</sup>

## **E. CONCLUSION**

Although this chapter may seem to favor the criticism toward the NYPD model, it is important to note that the NYPD has had a long history of civil liberty disturbances and unfortunately fell victim to the country's biggest tragedy since Pearl Harbor. Between the history of spying on their own civilians and the need to prevent the city from another attack, one can explain why this organization went to the extremes that they did. However, what is also important to note here is that the NYPD started a new revolution in law enforcement. They created the idea of counterterrorism and intelligence divisions within a local law enforcement organization that can effectively prevent or foil any attempts by domestic terrorists that want to instill fear and terror among the population. The only question now is how other municipalities can use this model without the extremes and criticism that comes with the NYPD, or the question of this thesis, what lessons does the New York Police Department model offer for other police municipalities and communities around the United States in fighting against the domestic terrorism threat, and what should be handled at the federal level?

Chapter IV briefly describes the different case studies from a few municipalities that have begun to develop their own counterterrorism model and shows whether or not these tactics have been effective. This next chapter examines these municipalities and describes what local law enforcement agencies outside the NYPD have accomplished.

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<sup>99</sup> Goldman and Apuzzo, "NYPD," AP.

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## **IV. COUNTERTERRORISM IN OTHER COMMUNITIES**

### **A. INTRODUCTION**

After the NYPD created one of the most aggressive domestic intelligence agencies in the country, several large municipalities felt the need to do the same. Even though no other city in the U.S. experienced the loss that New York City suffered, every mayor and police commissioner around the country wanted to do whatever was necessary in order to prevent this type of attack from occurring within their jurisdiction. Cities such as Los Angeles and Chicago have created counterterrorism divisions similar to the NYPD model and have had varied results in terms of foiled attacks and approval from the public.

The Los Angeles Police Department (LAPD) was the first municipality to begin following the model of the NYPD after 9/11. The Boston Police Department (BPD) shows a different perspective from the NYPD model on how they conduct counterterrorism tactics. Finally, the Chicago Police Department (CPD) recently established its own version of the NYPD model ten years after the NYPD introduced their counterterrorism model. This chapter analyzes the LAPD, the BPD, and the CPD, and briefly mentions a few smaller municipalities and their efforts against terrorism. This chapter also distinguishes which aspects of these police department's efforts in preventing terrorism have proved beneficial or have had a negative impact against the mission of counterterrorism.

### **B. THE LOS ANGELES POLICE DEPARTMENT**

Los Angeles has never suffered a terrorist attack by the al-Qaeda terrorist organization or any of their followers. However, the city has been linked to several plots that have been foiled as a possible site for an attack. With the increased threat to the U.S.

after 9/11 and the new policies set forth by the Patriot Act, the LAPD felt the need to institute new reforms similar to those of the NYPD, including increased surveillance and confidential informants.<sup>100</sup>

The LAPD knew not every Muslim American community within their municipality was linked to the radicalization of terrorism, but felt they did not have an effective counter-radicalization program. Following the model of the NYPD mapping process, the LAPD began to develop a unique version called the “Muslim Mapping” project. This project was developed by law enforcement officials to give the local police a better sense of the communities under their jurisdiction and to promote moderate voices within the Muslim Community in order to isolate extremists and create a shared sense of threat.<sup>101</sup>

The entire organization was supportive of the project, including the mayor, who states, “The efforts of the project were not targeting or racial profiling, but attempting to understand the communities.”<sup>102</sup> LAPD Police Chief William J. Bratton defended the project by stating, “This is not targeting... It is an effort to understand communities.”<sup>103</sup> This project was supported by the entire LAPD organization. They felt this program would enable the LAPD to pinpoint where violent extremism starts and potentially stop an attack from occurring.

The project was soon discontinued, however, after an outcry from the Muslim community and civil liberties groups within the area. These organizations claimed the project unfairly singled out Muslims as the top concern for the LAPD, which resulted in unfair police surveillance and spying. The Muslim Public Affairs Council stated, “We were very disturbed and concerned about the ramifications of the plan and having our

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<sup>100</sup> Brian Fishman and Andrew Lebovich, “Countering Domestic Radicalization, Lessons for Intelligence Collection and Community Outreach,” New American Foundation, June 2011, 16.

<sup>101</sup> Fishman and Lebovich, “Countering Domestic Radicalization,” 17.

<sup>102</sup> *Ibid.*, 17.

<sup>103</sup> Richard Winton, Teresa Watanabe, and Greg Krikorian, “LAPD defends Muslim mapping effort,” Los Angeles Times, November 10, 2007. <http://www.latimes.com/news/local/la-me-lapd10nov10,0,3960843.story?page=1>.

privacy invaded."<sup>104</sup> The groups charged that if the project's goal was an outreach program to understand and better acquaint with the community, then it failed miserably.

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The Muslim Mapping project was a huge mistake committed by the LAPD. In an attempt to replicate the mapping process of the NYPD, the LAPD neglected to realize that Muslims are not the only ethnicity committing acts or attempting to commit acts of terrorism. However, singling out one particular ethnicity, as in this case the Muslim community, is a severe act of racial profiling. As we have discussed already in chapter 3, this strategy is considered an "Ugly" aspect of the NYPD methods of counterterrorism and should not be replicated. By committing acts of racial profiling at this magnitude, the LAPD began to lose the faith and cooperation of that entire community, which is an essential aspect of counterterrorism.

After the failure of the mapping project, Muslim community leaders and LAPD officials attempted to rethink a counter-radicalization strategy. LAPD Deputy Chief Michael Downing claimed dropping the program would open the dialogue between Muslim Americans and the LAPD and possibly lead to a new, more effective counterterrorism strategy.<sup>106</sup> However, coordination between the two significantly decreased due to the "loss of confidence" exhibited from both sides. The Muslim leaders felt the LAPD were only looking to profile and map their communities no matter what strategy was developed and the LAPD felt the Muslim leaders had effectively lost any type of influence they had. The LAPD felt they could no longer count on the Muslim leaders to represent their views to the public.<sup>107</sup>

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<sup>104</sup> Richard Winton and Teresa Watanabe, "LAPD's Muslim mapping plan killed," Los Angeles Times, November 15, 2007. <http://articles.latimes.com/2007/nov/15/local/me-muslim15>

<sup>105</sup> Fishman and Lebovich, "Countering Domestic Radicalization," 17. A letter written by the ACLU and Muslim leaders addressed to Commander Downing on the concerns of the Mapping program can be viewed at [http://www.cair.com/Portals/0/pdf/Muslim\\_Leaders\\_to\\_LAPD.pdf](http://www.cair.com/Portals/0/pdf/Muslim_Leaders_to_LAPD.pdf).

<sup>106</sup> Richard Winton and Teresa Watanabe, "LAPD's Muslim mapping plan killed,"

<sup>107</sup> Fishman and Lebovich, "Countering Domestic Radicalization," 17.

The LAPD officers claimed the Muslim leaders failed to understand the idea of what the LAPD was trying to accomplish when in reality, the police department failed to understand how to effectively and legitimately conduct counterterrorism. By conducting racial profiling of the Muslim community, the LAPD lost the ability to effectively work in an intelligence environment within the community. Instead of creating excuses for why the program did not work, the department should have developed ways to reestablish their relationship with the public.

The LAPD did not have full situational awareness throughout their communities, which forced the organization to pursue other modes of intelligence collection. After failing to develop a coordinated strategy with the Muslim Community, they instead focused on a program that collects information continuously no matter what ethnicity or race. The LAPD decided to incorporate the Suspicious Activities Reporting program (SAR) into their primary methods of collecting intelligence. The purpose of this program was to allow trained analysts to identify different patterns in the behavior of individuals that may be planning or preparing for a terrorist attack. The information is tracked, coded, and recorded through a system that observes suspicious activity include using binoculars or cameras, taking measurements, taking pictures or videos footage of selected areas and buildings, drawing or taking notes, pursuing training in a suspicious field, and exposing extremist views.<sup>108</sup>

The LAPD claims this system avoids racial profiling and focuses primarily on an individual's behavior. Critics of the system argue the process "Opens the door to racial profiling ... and exposes law-abiding people to government prying into their private affairs without just cause."<sup>109</sup> They also say the process, which identifies the suspect activities, becomes incredibly broad and that the reporting of these offenses will create numerous amounts of useless data. They claim this will tie down police resources attempting to monitor and analyze all the useless information.<sup>110</sup>

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<sup>108</sup> Ibid., 17.

<sup>109</sup> McNamara, Testimony, Mike German and Jay Stanley, "Fusion Center Update," ACLU July 2008. [http://www.aclu.org/pdfs/privacy/fusion\\_update\\_20080729.pdf](http://www.aclu.org/pdfs/privacy/fusion_update_20080729.pdf).

<sup>110</sup> German and Stanley, "Fusion Center Update."

Although the SAR program is a step in the right direction in comparison to the Muslim Mapping Project, it still is not the permanent solution to the problem, nor is it the best intelligence collection asset for counterterrorism models. The SAR program can create vast amounts of information to analyze. The Congressional Research Service refers to this information as “dots.”<sup>111</sup> Trying to connect the dots and make sense of the information coming in through the system can be time consuming and may force the individual conducting the analyses to focus his or her attention on matters that are not important instead of information that could be significant. The CRS report refers to numerous amounts of “pipe clogging” including a huge amount of information gathering without any focus.<sup>112</sup>

The GAO found that the use of SAR systems in intelligence fusion centers created “Redundancies of information that made it difficult to discern what was relevant. As a result, end users were overwhelmed with duplicative information from multiple sources.”<sup>113</sup> The LAPD use of the SAR program requires constant monitoring and analysis by trained intelligence experts to correctly decipher the information coming in. Therefore, the LAPD needed to develop a system or network that could accomplish this task, which is why the organization joined national initiative of intelligence sharing.

Another effort in addition to the implementation of the SAR initiative was the national sharing of intelligence that was beginning to take effect throughout the nation. In July 2006, the Los Angeles Regional Intelligence Center (JRIC) was opened. The LAPD, along with their regional partners the Los Angeles Sheriff’s Department and the FBI Los Angeles office, smartly decided to develop a counterterrorism and infrastructure protection center to cover the seven counties in the Los Angeles and southern California area.<sup>114</sup>

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<sup>111</sup> Jerome P. Bjelopera, “Terrorism Information Sharing and the Nationwide Suspicious Activity Report Initiative: Background and Issues for Congress,” Congressional Research Service, December 28, 2011, 15.

<sup>112</sup> Bjelopera, “Terrorism Information Sharing,” 15.

<sup>113</sup> “Homeland Security: Federal Efforts Are Helping to Alleviate Some Challenges Encountered by State and Local Information Fusion Centers,” United States Government Accountability Office, October 2007, 50.

<sup>114</sup> “Homeland Security” GAO, 58

This establishment brought the FBI's Field Intelligence Group (FIG), LAPD's Major Crimes Division, and the Sheriff Department's Terrorism Early Warning (TEW) group together under one roof. The mission of the JRIC is primarily intelligence collection, fusion, and analysis, with an emphasis on terrorist threat intelligence. Using this information they were tasked to provide "Timely, regionally focused, and actionable information to consumers and producing assessments; and identifying trends, patterns and terrorist tactics, techniques and procedures; and sponsoring training opportunities."<sup>115</sup> While producing daily and weekly reporting that adequately deciphers the intelligence that comes in on a daily basis, the LAPD could focus on the day-to-day counterterrorism efforts on the ground.

Along with the active JRIC, the LAPD's Counter-Terrorism and Special Operations Bureau (CTSOB), which is comprised of Major Crimes Division (ATD) and Emergency Services Division (ESD), has taken on the mission of counterterrorism and intelligence efforts within the city of Los Angeles. The bureau's mission is to prevent terrorism by effectively sharing information aimed at disrupting terrorist's operational capability and addressing the underlying causes associated with the motivational component. The CTSOB is also responsible for pursuing terrorists and those criminal enterprises that support them. Ultimately the CTSOB is now responsible for planning, response, and intelligence under the mission of counterterrorism. Between the CTSOB and the JRIC, the LAPD has become a formidable force in the battle of counterterrorism.<sup>116</sup>

### **C. THE BOSTON POLICE DEPARTMENT**

As major metropolitan areas around the country began to strategize how they were going to incorporate and tackle the counterterrorism mission, The Boston Police Department (BPD) incorporated a three-step strategy that began to tap into pre-existing

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<sup>115</sup> Ibid., 58.

<sup>116</sup> The Los Angeles Police Department, Counter-Terrorism and Special Operations Bureau (CTSOB). [http://www.lapdonline.org/inside\\_the\\_lapd/content\\_basic\\_view/6502](http://www.lapdonline.org/inside_the_lapd/content_basic_view/6502).

infrastructures and networks. The department began by first combining its pre-existing research and evaluation department and intelligence unit into one program called the Tactical Intelligence Center (TIC).

The second step of the strategy was the development of a fusion center, called the Boston Regional Intelligence Center (BRIC). After 9/11, the DHS created grant programs to assist states and federal law enforcement agencies in their fight against terrorism. Once the Homeland Security Grant Program created the Urban Areas Security Initiative (UASI), the BPD used the funds from the grant program to create the department's Fusion Center in 2005. The UASI was established to support selected high-threat, high-density urban areas in order to address multi-discipline planning, organization, equipment, training, and exercise needs in order to build and sustain capabilities to prevent, protect against, respond to, and recover from threats or acts of terrorism.<sup>117</sup> The BRIC allowed the integration of intelligence capabilities within the Boston area, along with the entire state of Massachusetts, and all of the entities including the federal law enforcement partners. The development represented a strategic overhaul of the department's traditional intelligence operations by embedding civilian crime analysts with intelligence investigators to jointly identify, analyze, and disseminate patterns and other relevant data. This allowed the department to respond to emerging crime trends more quickly, by comparing high-impact criminal activities occurring in different locations and involving different people.<sup>118</sup>

The third step of the strategy included adding the counterterrorism mission to units within the BPD. Other relevant units within the BPD that were given counterterrorism responsibilities include the Police Operations Division, the Bureau of Field Service, and specialized response units, which incorporated special operations,

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<sup>117</sup> Federal Emergency Management Agency, FY 2012 Homeland Security Grant Program, Urban Areas Security Initiative (UASI). <http://www.fema.gov/fy-2012-homeland-security-grant-program>

<sup>118</sup> Boston Police Department 2005 Annual Report. <http://www.cityofboston.gov/police/pdfs/2005AnnualReport.pdf>.

hazmat, commercial vehicle enforcement, harbor patrol, and bomb squad.<sup>119</sup> Instead of creating a separate counter terrorism division similar to the NYPD and LAPD, the BPD fused the responsibility throughout many already existing divisions and outside entities.

The strategy of merging units into a TIC, creating a fusion center, and fusing the responsibility through already existing divisions has several advantages and disadvantages. The first advantage for this strategy is that the collection and analysis of intelligence improved significantly compared to the system they had. A RAND study on Law Enforcement's Long Term Effects on Counterterrorism found that some of the different divisions within the BPD, for example, the High Intensity Drug Trafficking Areas (HIDTA) network, worked well to build the local intelligence functions needed in the counterterrorism environment. Due to the strong relationship built through the shared counterterrorism mission, the BPD sent terrorism liaison officers to each precinct office. These officers served as a liaison between the officer in the field and the counterterrorism unit, and were responsible for tracking and reporting information that may relate to counterterrorism.<sup>120</sup>

The second advantage to this strategy focuses on the expansion of the community networks. With several divisions within the BPD working to accomplish similar missions, a large community network was introduced. A concept called "public trust policing" was created, providing a way for the department to reach out to the community and build relationships with specific groups. This concept can also be referred to as community policing. The goal of this strategy was to build trust between the department and the community to improve information exchange in the future.<sup>121</sup>

Another advantage revolves around the funding needed to facilitate this mission. Since the BPD did not need to create an entirely new division or hire new personnel, the incorporation of already existing infrastructures needed very little budget requirements.

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<sup>119</sup> Lois M. Davis, Michael Pollard, Kevin Ward, Jeremy M. Wilson, Danielle M. Varda, Lydia Hansell, and Paul Steinberg, "Long-Term Effects of Law Enforcement's Post-9/11 Focus on Counterterrorism and Homeland Security," RAND Corporation, 2010, Santa Monica, CA. 112.

<sup>120</sup> "Long-Term Effects of Law Enforcement's" RAND Corporation.

<sup>121</sup> Ibid.

Any extra funding the BPD received from outside grants was utilized to enhance the fusion center located in the metropolitan area.<sup>122</sup>

The final advantage of this strategy is the involvement in the national sharing of intelligence initiative. An organization that has departments coordinating multiple goals and responsibilities may be forced to prioritize and focus on the most detrimental and important aspects. As small counterterrorism threads of intelligence compete for attention with other priorities in the organization, information sharing specific to terrorist threats may fall behind or possibly get thrown out. Fusion centers around the nation have helped to centralize and formalize information sharing between different Law Enforcement Agencies (LEA) and other participants. These centers allowed these LEAs to become connected to the federal intelligence community. With the BPD developing their regional intelligence center, they were able to take advantage of the formalized information exchange. This assisted the knowledge process and relied less on personal relationships and contacts, which is especially important since the BPD officers often rotated out of counterterrorism positions into new roles or to focus on other missions at hand.<sup>123</sup> It also gives different police leadership greater control over information that might point the way to more serious threats. For instance, through the information exchange, the police in Boston can alert their counterparts in Newark to a potential threat without having to wait for the information to filter through the federal government.<sup>124</sup>

There are, however, several disadvantages to the BPD strategy. First, it relies on technology to organize shared information. The BPD relies strongly on the technology of their fusion center in order to participate without dedicating full-time personnel. Personnel work at the BRIC for a short period and often have other responsibilities rather than devoting their time fully at the fusion center. Personnel co-located within the fusion

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<sup>122</sup> Ibid.

<sup>123</sup> Ibid

<sup>124</sup> JOHN SULLIVAN, Lessons in Counterterrorism, The New York Times. April 27, 2003. <http://www.nytimes.com/2003/04/27/nyregion/lessons-in-counterterrorism.html?pagewanted=all&src=pm>.

centers create accountability by working face-to-face with other agencies. Not having that physical relationship may reduce the accountability if solely operated in a part-time environment.<sup>125</sup>

Second, there is a strong possibility information can be over looked or lost over the Internet and through conference calls through informal sharing of information. Intelligence analysis is a very dynamic process that requires updated, current exchange, and the synthesis of information, which may be lost in virtual environments as well as environments with too much responsibility. If personnel from each participating agency are not fully involved in the analysis process, which may be more likely in virtual environments because of less face-to-face accountability, then some of the dynamic analysis may be lost.<sup>126</sup>

A concern expressed in the RAND study is how the sharing of information through a system similar to the BPD may become an information dump rather than fusing the information and making sense of the intelligence that gets compiled.<sup>127</sup> Having networks that are simply a point for sharing information and pushing to other localities rather than a true fusion process that gathers and analyzes the threat of information can be counterproductive to the mission.

The last disadvantage associated with the BPD model of counterterrorism is that it requires a great deal of knowledge and experience on the part of personnel involved. The BPD involved giving added responsibility to personnel but did not incorporate the needed training. Most of the BPD officers given the responsibility were mid-career officers who were highly motivated to get into this area, and often were self-selected. Those involved in the counterterrorism and intelligence process not only have to learn and become experts in WMD preparedness and response to CBRNE, as well as major Homeland Security initiatives that may impact their jurisdiction, but also learn and understand techniques for collecting raw and open source intelligence, conducting open source

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<sup>125</sup> “Long-Term Effects of Law Enforcement’s” RAND Corporation.

<sup>126</sup> Ibid., 12

<sup>127</sup> Ibid., 13

research, evaluate sources, and understand the fusion center's detailed guidelines. The information and responsibility needed for a counterterrorism specialist would be very difficult to follow and understand if an officer was thrown into the position without any training or experience.<sup>128</sup>

A counterterrorism commander commented in a recent study that police officers did not necessarily make the best analysts.<sup>129</sup> Departments like the BPD utilize the best investigators throughout different divisions, for instance the narcotics units, and attempt to turn them into intelligence analysts. Counterterrorism analysts require a unique set of expertise and mentality developed through education and training unique to their field. It is noted in this study that typical law enforcement officers are not trained for this duty and that there is no specialized career track for officers who are placed in this specialized area. Although law enforcement personnel are uniquely positioned to understand the intelligence needs of law enforcement and have the ability to fully conduct counterterrorism missions, simply moving a narcotics officer to a position of terrorism analysis to save money is not the most advantageous method.<sup>130</sup>

Law enforcement officers in departments following the BPD model may not satisfy counterterrorism and Homeland Security needs. Not only were BPD officials not trained for this strategy, they did not follow the initiatives set forth by DHS. Funding by the UASI given to positions of intelligence analysts is required to meet specific criteria described by the Department of Homeland Security. According to the U.S. Department of Justice Global Justice Information Sharing Initiative, these personnel must have completed "training to ensure baseline proficiency in intelligence analysis and production within six months of being hired or have served as an intelligence analyst for at least two years in a federal agency, the military, or state and/or local law enforcement intelligence

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<sup>128</sup> Ibid., 23.

<sup>129</sup> Ibid., 23.

<sup>130</sup> Ibid., 23.

unit.”<sup>131</sup> DHS ensures all intelligence and counterterrorism personnel hired through their system meets the requirements laid out in the Global Justice Sharing Initiative’s Minimum Criminal Intelligence Training Standards for law enforcement and other criminal justice agencies in the United States.<sup>132</sup>

The civilians hired through the DOJ initiative have been found to have statistical and intelligence backgrounds. Not only have these personnel received all the required training, but also they have been found to stay in these positions longer than a sworn officer, who typically rotates out of positions every couple of years to keep progressing in his or her career. The BPD did not follow the recommendations for hiring properly trained personnel in counterterrorism positions and instead utilized internal officers in order to save money.<sup>133</sup>

The case study of the BPD shows several advantages of combining already established infrastructures to meet the demands of fighting terrorism, however taking too many shortcuts can also be extremely counterproductive. Departments similar to the BPD can benefit from utilizing already established infrastructures as long as the personnel have been given the proper training requirements and have a career progression model established within the department. If the personnel are not familiar with the intelligence analyses process and are not motivated to accomplish the goals due to the lack of career enhancement, then mistakes can be made and information can be overlooked, which may be a critical piece to the intelligence puzzle.

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<sup>131</sup>U.S. Department of Justice, Office of Justice Programs, Global Justice Information Sharing Initiative, *Fusion Center Guidelines Developing and Sharing Information and Intelligence in a New Era*, 2006. As of September 17, 2010:  
[http://www.it.ojp.gov/documents/fusion\\_center\\_guidelines\\_law\\_enforcement.pdf](http://www.it.ojp.gov/documents/fusion_center_guidelines_law_enforcement.pdf)

<sup>132</sup> U.S. Department of Justice, Office of Justice Programs, Fiscal Years 2007-2012. Strategic Plan August 28, 2006, 11.

<sup>133</sup> “Long-Term Effects of Law Enforcement’s” RAND Corporation.

#### **D. THE CHICAGO POLICE DEPARTMENT**

Similar to most of the country's municipalities, the city of Chicago had not suffered from a major terrorist attack. However the threat of terrorism is a real concern for Chicago officials. The city has found itself home to several violent extremists and has even been found to be the center of numerous terrorist plots. David C. Headley, a resident in Chicago, assisted the deadly Mumbai Kenya terrorist attack in 2008. In Miami, five individuals associated with a militaristic religious group conspiring with al-Qaeda to "levy war" against the U.S. allegedly plotted to destroy Chicago's Sears Tower.<sup>134</sup> Also the raid on Osama bin Laden's compound found documents that included potential plans to attack the city.<sup>135</sup>

With multiple threats facing the city as well as the arrival of several international dignitaries for two international summits, the Group of Eight and NATO visit in 2012, Mayor Rahm Emanuel decided to hire new police superintendent Garry McCarthy to begin transitioning the Chicago Police Department (CPD) to incorporate the heavy mission of counterterrorism. McCarthy, who was in New York on September 11, 2001, and facilitated the creation of the NYPD counterterrorism strategy, began to transition the CPD to bolster security and incorporate lessons learned from academic research on New York City's counterterrorism tactics. The counterterrorism strategy McCarthy incorporated utilized the NYPD's innovative program on a smaller scale. The program began to hire and train personnel within the department to speak Pashto, Arabic, and other languages in order to monitor communication channels.<sup>136</sup>

McCarthy's strategy also involved a heavy reliance on building the strengths of local, state, and regional law enforcement assets, academics, and professional expertise in

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<sup>134</sup> Damien Cave & Carmen Gentile, Five Convicted in Plot To Blow up Sears Tower as Part of Islamic Jihad, N.Y. TIMES, May 13, 2009.

<sup>135</sup> David Lapeskia, "Preparing for 2012, Police Create Counterterrorism Unit." The New York Times, September 8, 2011.

<sup>136</sup> David Lapeskia, "Preparing for 2012."

the areas of security and risk management. This included private sector support and cooperation, as well as the strength of Chicago neighborhoods as a potential source of cooperation and information.<sup>137</sup>

A Chicago group called Muslims for a Safe America began taking this strategy to the doorsteps of Muslims in Chicago to address tensions within the Muslim Community about American policies both domestically and internationally. Unlike the LAPD Mapping strategy, this allowed the community to become more willing to work with police and to help avoid early mistakes that could hamper the new counterterrorism division's efforts. Chicago is also home to the nation's largest chapter of the Council American-Islamic Relations. Having such a large Muslim community requires the new counterterrorism strategy to be extremely vigilant and to ensure the strategy does not cross the lines on racial profiling and civil liberties.

The CPD argues it follows directives provided by DHS to support local anti-terrorism efforts. This directive outlines coordination procedures that will enhance the department's anti-terrorism preparations and responses. Included in this directive are responsibilities to all the members of the CPD counterterrorism division, the Chicago Joint Terrorism Task Force (JTTF), and the Chicago Homeland Security Committee. The directive can be publicly accessed on the department's website.<sup>138</sup>

Once McCarthy's strategy and transformation becomes a permanent part of the CPD, the counterterrorism efforts must be careful not to cross the line over civil liberties. Utilizing tactics and strategies from the NYPD's model may make it very easy to cross that line, if not implemented correctly. Similar to the NYPD, the CPD has not always been the model department as far as handling civil liberty issues. The Department has been criticized for illegally invading activist's homes, such as the home of Joe Iosbaker,

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<sup>137</sup> Ellen Cannon, "Chicago Police Department Creating New Counter Terrorism Unit," Examiner.com, September 9, 2011. <http://www.examiner.com/article/chicago-police-department-creating-new-counter-terrorism-unit>.

<sup>138</sup> Philip J. Cline, Chicago Police Department, Anti-Terrorism Preparations, Directive S05-08-02.

organizer of the G8 and NATO protests.<sup>139</sup> Controversy also arose over the charges of illegal surveillance of the American Friends Service Committee by the CPD and FBI related to protests of the 2008 presidential inauguration.<sup>140</sup>

## **E. OTHER MUNICIPALITIES**

Similar to the CPD, other municipalities have felt the threat of terrorism and the need to understand the behaviors of their communities without crossing the boundaries of racial profiling. Even though the NYPD continues to utilize the mapping technique, other municipalities have looked to the SAR program, as well as active Closed Circuit Television cameras (CCTV), which can now utilize behavior recognition software for preventive measures. This new technology combines computer vision with machine learning to provide actionable intelligence through real-time, relevant alerting of anomalous behavior observed by cameras.<sup>141</sup> Several cities have procured this software including Boston, Chicago, and recently New York City.

Several weeks prior to the 2012 Republican National Convention, the city of Tampa purchased behavioral recognition software in order to conduct video surveillance of the convention and the surrounding area. The system looked for abnormal activities and sent alerts in real time to security personnel within the area. The software was also able to cross reference the information through an intelligence database that had stored previous information to look for similarities. According to an interview with the president of BRS Labs John Frazzini, the maker of the recognition software, the program is equipped to “detect what is called ‘anomalous’ behavior. It operates on the theory that objects appear different from one angle to the next -- and that the behavior of humans in one camera may be completely different than the behavior found in another.”<sup>142</sup>

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<sup>139</sup> “Anti-War Activists Targeted in FBI Raids Plan Rally,” Sep 27, 2010. <http://www.nbcchicago.com/news/politics/Anti-War-Activists-Targeted-in-FBI-Raids-Speak-Out-Joe-Iosbaker-Stephanie-Weiner-103816969.html#ixzz2JDtHW5AM>.

<sup>140</sup> Colin Moynihan, “F.B.I. Searches Antiwar Activists’ Homes,” The New York Times, September 24, 2010. [http://www.nytimes.com/2010/09/25/us/politics/25search.html?\\_r=1&hpw](http://www.nytimes.com/2010/09/25/us/politics/25search.html?_r=1&hpw)

<sup>141</sup> Behavioral Recognition Systems, What is Behavioral Recognition, AISight, 2012. <http://www.brslabs.com/what-is-behavioral-analytics>

<sup>142</sup> Susan Jones, “Report: GOP Convention Surveillance Includes ‘Behavioral Recognition’ Software,” CNS News, August 21, 2012.

Other smaller local law enforcement agencies continue to develop relationships with state and local intelligence fusion centers. With most states having a main fusion center and several regional centers, small departments are beginning to see the advantages of participating in a nationwide information sharing initiative. Recently, the Lakewood, Colorado, Police Department, consisting of 400 police officers, received intelligence about an individual placing a small-improvised explosive device (IED) at a Borders bookstore located at the nearby mall. The department immediately notified their regional fusion center, which in turn notified the Joint Terrorism Task Force (JTTF) and notified several first responder units to immediately report to the scene. The Colorado Information Analysis Center (CIAC) sent the information across the nationwide network of fusion centers, requesting any intelligence related to the situation. Within 15 minutes of sending out the request, the CIAC received information from a Terrorism Liaison Officer (TLO). A TLO is a law enforcement personnel who serves as the conduit through which homeland security and crime-related information flows from the field to the Fusion Center for assessment and analysis.<sup>143</sup> Most of the time the TLO is more of a collateral duty. The TLO reported that the individual, 24 hours earlier, had crashed his vehicle and was charged with Menacing and Driving Under the Influence of alcohol. The arresting officer, after hearing about the IED through the fusion channels, believed the suspect he arrested was also the suspect in the bookstore attempt.<sup>144</sup>

The CIAC had also received another lead from a different TLO, which connected the suspect to another IED that partially detonated near a hotel close to the bookstore.<sup>145</sup> The CIAC was able to forward this information to the FBI JTTF to support the investigation. This example shows how small town law enforcement departments who may not have the funding needed to establish a division devoted to intelligence or counterterrorism can still be productive members in the fight against terrorism. By

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<sup>143</sup> Advisory committee on Fusion Centers, Terrorism Liaison Officer (TLO) Proposal, <http://osfm.fire.ca.gov/advisorycommittees/pdf/steac/tlotrainingdoc.pdf>.

<sup>144</sup> "Fusion Center is Instrumental in the Arrest of an Attempted Bombing Suspect," Fusion Center Success Stories, Colorado Information Analysis Center, June 2011.

<sup>145</sup> U.S. Department of Homeland Security, "Fusion Center is Instrumental in the Arrest."

simply involving themselves in the national information sharing initiative, they were able to send and receive information critical to preventing and prosecuting the individual responsible for this attack.

## **F. CONCLUSION**

This chapter reviewed several different case studies that incorporated different strategies in the fight against terrorism. The LAPD took the initiative of mirroring the NYPD's counterterrorism strategy and suffered severe criticism due to their racial profiling efforts of the Muslim community and had to revamp their strategy several times before it became what it is today. Without analyzing the lessons learned or positive versus negative aspects of the NYPD model, the organization immediately implemented what they thought was an effective effort and learned that mirroring another strategy without analyzing the effectiveness of it can cause serious problems and repercussions. Unfortunately they learned this through several modifications until they settled on an operational strategy.

The BPD incorporated a fused strategy that took already existing infrastructures and added on the responsibility of counterterrorism and intelligence, which had mixed results. The strategy saved the department a lot of money, but forced personnel to take on additional responsibilities and placed a heavy burden on those officers to effectively accomplish the mission. This strategy can allow personnel to overlook sensitive information that may not seem important at first, but could end up being imperative to the big picture. This proves that the intelligence analyses portion of the counterterrorism mission has to be handled by experts in their field and that have had experience and training required to obtain the position. The BPD case is a different perspective of a law enforcement agency attempting to combat terrorism within their boundaries. However, through analysis of this chapter, there are many negative aspects of this method that makes it unappealing for other municipalities to follow.

Finally, the CPD, 11 years after the 9/11 attacks, decided to form a counterterrorism and intelligence division that concentrated on the efforts from the community, drawing on lessons learned from the NYPD's approach to counterterrorism.

With less than a year of implementation, it is difficult to assess the success of the strategy. It will be interesting to see the effects of the new policy in the city of Chicago in the future.

The last chapter summarizes the specific lessons of the NYPD model and suggests which aspects would be beneficial to local law enforcement agencies. This chapter also cites examples of preventive measures state and local law enforcement agencies may want to consider in the future that are not included in the NYPD model, and examines what should be handled at the federal level.

## **V. FINAL ANALYSIS AND CONCLUSION**

This final chapter examines the NYPD model, with evidence from other municipalities examined in chapter four, and gives a final analysis of what aspects of the NYPD counterterrorism unit are beneficial for other municipalities to follow, which aspects should not be utilized, and possible recommendations that are not utilized in any of the models. This thesis has carefully examined specific NYPD counterterrorism tactics, compared those efforts to other municipalities, and will now analyze the advantages and disadvantages of those tactics.

By analyzing the NYPD model, state and local law enforcement leaders around the country can learn how critical and important the counterterrorism effort is and begin to strategize how to effectively conduct intelligence gathering and counterterrorism missions in their jurisdictions. This chapter will answer the questions of this thesis; what lessons does the New York Police Department model offer for other police departments and communities around the United States in fighting against the domestic terrorism threat, and what aspects of the NYPD model should be handled at the federal level?

### **A. THE DO'S**

What the NYPD has established in their intelligence division is unlike anything any other local law enforcement department has been able to accomplish. But even though state and local law enforcement agencies have only a fraction of the NYPD budget, other agencies could establish some type of intelligence effort with minimal fiscal impacts if done correctly. First, if law enforcement departments around the country don't already have intelligence and counterterrorism divisions implemented in their command structure, then they should begin the process of restructuring their organization. This will begin to set the precedence of law enforcement agencies and show DHS that state and local police forces are serious about the counterterrorism mission. DHS could potentially introduce long-term investment and grants to develop state and local police units as prime intelligence collectors. Instead of concentrating on guidelines that DHS developed through their Target Capabilities List (TCL) that focus on

information gathering, intelligence analysis and sharing, and counterterrorism investigation, DHS should produce funding for divisions of specially trained investigators and analysts that will perform the capabilities in the TCL.<sup>146</sup>

Also, implementing intelligence and counterterrorism divisions will organize the efforts of a department to focus on the task at hand, which is to foil a terrorist attack. This thesis demonstrates the benefits of having both analysts, who can interpret the data and intelligence from out in the field, and field operatives, who are gathering the intelligence and searching for clues. As this thesis has shown, the massive amounts of intelligence data that gets compiled is far too extensive and time consuming for a law enforcement officer working in multiple divisions to handle. Implementing a separate division will allow counterterrorism specialists the resources, personnel, and capacity to effectively operate in a counterterrorism atmosphere. As chapter four has discussed, it is very difficult to fuse different missions with already existing departments. The most efficient and effective way to conduct intelligence and counterterrorism missions is to separate the responsibility and to allow the specialists assigned to the mission the ability to concentrate on the task.

Second, once a division has been established, only the most qualified personnel should be hired to fill these positions. Law enforcement leaders need to understand the attributes required of these unique positions and, if needed, receive guidance from members of already established and successful departments, for instance NYPD or even DHS. The NYPD case has shown how competitive, experienced, and qualified counterterrorism positions are. The NYPD has even gone to the extent of hiring strictly Ivy League graduates or personnel with several years of experience in some sort of intelligence field. Once the guidelines have been established for hiring intelligence and counterterrorism officers, leadership must ensure there is an upward trend in promotion similar to any other federal intelligence agency. In order to attract the highest-quality intelligence officer or analyst for employment, forward mobility will need to be explicit

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<sup>146</sup> Matt Mayer, "Effective Counterterrorism," 2.

within the job description. No personnel with the credentials required for this position would pursue landing a dead end job with no opportunity for advancement.

Third, once a counterterrorism unit with qualified personnel is underway, these units should then focus on sharing gathered intelligence laterally throughout the state and country among local police organizations. Priority should be to share the information through regional fusion centers. However, if certain organizations are not equipped to follow the guidelines established by the Fusion Center Guidelines report, then local authorities must have a way to communicate with each other in terms of information sharing. The NYPD's Sentry Program is a unique and perfect example of how other states can communicate laterally. This program involves over 125 representatives from different New York state and local law enforcement agencies focusing on information gathering and sharing to detect and if necessary defeat threats of terrorism.<sup>147</sup> This type of relationship generates a trust that can ultimately lead to the sharing of vital information.

Finally, counterterrorism experts and leaders of an organization must constantly communicate with their community. They should not focus on any specific type of religion or ethnicity. This would cause the organization to fall victim to racial profiling, which would lose the trust of the community. Law enforcement personnel need to develop ways that allows the community of all different races and religious beliefs to feel comfortable opening up to the officers and report anything suspicious.

Religious leaders, especially in the American Muslim community, can be consulted with in order address tensions within those communities about American policies in this country and abroad.<sup>148</sup> With an effective communication strategy between law enforcement and the community, intelligence needed to prevent a crime or terrorist activity can be developed and individuals can be discouraged from attempting to radicalize.

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<sup>147</sup> NYPD Press release, NYPD Convenes Operation Sentry Members for Annual Conference [http://www.nyc.gov/html/nypd/html/pr/pr\\_2009\\_ph10.shtml](http://www.nyc.gov/html/nypd/html/pr/pr_2009_ph10.shtml).

<sup>148</sup> Wolfgang Bartelme, "In The Media," Muslims For A Safe America, Assessed on March 03, 2013, [http://muslimsforasafeamerica.org/?page\\_id=55](http://muslimsforasafeamerica.org/?page_id=55).

## **B. THE DO NOTS AND WHAT SHOULD BE CONSIDERED FEDERAL RESPONSIBILITY**

Although the NYPD has been labeled the model for other municipalities to follow, there are a few tactics that the department has employed that have been scrutinized and found to have little to no significance in the fight against terrorism. First, police organizations need to be especially careful not to cross the line on two important issues: civil liberties and racial profiling. The ethnic mapping techniques utilized by both the NYPD and LAPD have infuriated many innocent Muslim civilians. The main critique of the mapping process has been that this tactic diverts resources to “map” U.S. communities based on their religious beliefs, ethnic orientation, and national characteristics, focusing primarily on Arab American and Muslim communities as potential terrorist for recruitment.<sup>149</sup> Singling out an ethnicity, race, or religious belief is profiling. The LAPD case study proves that this tactic can ruin efforts to communicate and work with different communities.

Chapter two discusses why local law enforcement is the perfect tool for the counterterrorism mission. Violating the civil liberties of U.S. citizens and singling out ethnicities and religious group will only limit the ability to share information. The community is the eyes and ears for law enforcement. A police officer’s relationship with the everyday citizen creates that trust that no federal enforcement officer can create. By violating civil liberties and committing racial profiling, that trust can disappear, which results in the loss of the most important of counterterrorism intelligence.

Second, police departments should focus on the responsibilities of counterterrorism efforts within the departments’ own jurisdiction. Organizations who venture into other department’s areas will only ruin the relationships needed for sharing intelligence. As the NYPD example proves, in the case of the surveillance operations of NYPD officers in New Jersey, the monitoring efforts hindered investigations conducted

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<sup>149</sup> Charlie Savage, F.B.I. Scrutinized for Amassing Data on American Communities, N.Y. TIMES, Oct. 21, 2011, at A20, [http://www.nytimes.com/2011/10/21/us/aclu-releases-fbi-documents-on-american-communities.html?\\_r=1&hpw](http://www.nytimes.com/2011/10/21/us/aclu-releases-fbi-documents-on-american-communities.html?_r=1&hpw).

by Newark police and the FBI, and created additional risks in counterterrorism.<sup>150</sup> Not only have these efforts hindered investigations conducted by the enforcement agencies responsible for that area, but they also damaged the public's trust in New Jersey law enforcement and jeopardized many of the relationships agents had developed in the community since 9/11.<sup>151</sup>

Third, police departments should not act independently in the mission of counterterrorism. There is an initiative devoted to sharing intelligence on a national level. Information is constantly being updated and analyzed and could either be useful to the small municipality examining a lead, or the information analyzed by a small municipality could benefit an organization in a different area.

As fiscal restraints continue to limit the capabilities of law enforcement agencies, it will be difficult for an organization to acquire the capabilities that the NYPD has developed over the last ten years. This makes it even more important for organizations not to act alone. The FBI has a wide array of capabilities that can assist local entities in their efforts in counterterrorism. Unlike the NYPD, who has been known for their inability to work effectively with their FBI counterparts, localities should look for assistance whenever they can in order to maximize their ability to prevent a terrorist attack. Whether it involves a federal authority, for instance the FBI or representatives for DHS, or even other local authorities, every possible capability should be exploited.

Finally, there are aspects of the NYPD that should not be considered part of a local or state enforcement strategy against terrorism. With a strong sharing initiative between law enforcement departments from both state and federal entities, deploying state and local officers overseas would be a waste of money and resources. This strategy employed by the NYPD specifically should be handled at the federal level. There are federal law enforcement officers deployed to every U.S. Embassy who constantly report and investigate leads or events. By simply developing a relationship with the FBI

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<sup>150</sup> Samantha Henry, "NJ FBI: NYPD monitoring damaged public trust," Associated Press, March 7, 2012, <http://www.ap.org/Content/AP-In-The-News/2012/NJ-FBI-NYPD-monitoring-damaged-public-trust>.

<sup>151</sup> Henry, "NJ FBI."

counterterrorism counterparts located at the nearby JTTF, law enforcement officers looking to research intelligence overseas can utilize federal employees to obtain that information.

### **C. OTHER ADDITIONS TO THE COUNTERTERRORISM MISSION**

Education and training personnel on intelligence and counterterrorism has turned out to be quite costly and inefficient for both federal agencies and municipalities. The NYPD spends millions of dollars to bring in counterterrorism experts to provide training on counter-terrorism and intelligence issues for their officers. These programs have no syllabus or instructional portfolio to follow. The instructors have no uniform standard for hiring or evaluation. They are simply hired for their experience and knowledge in the field of terrorism. The fact that the NYPD can spend the money to acquire these “experts” does not help the rest of police organizations around the country to learn the proper techniques and knowledge of how to conduct proper intelligence gathering and counterterrorism efforts.<sup>152</sup>

Police departments around the country need to develop a universal syllabus that provides efficient and effective instruction on counterterrorism to police officers. This instructional doctrine can be utilized throughout different cities in order to decrease the risk of misunderstanding among different law enforcement agencies. Once a training doctrine is created, police departments can begin to select trainers to effectively teach the required material. These trainers should be critiqued and evaluated to ensure proper standards are emplaced. This system of education would be extremely cost effective considering the instructors are from the department and already receive a salary. The system should then focus on providing senior law enforcement leaders specialized courses, what the military describes as “Train the Trainer,” to ensure the knowledge is provided effectively.

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<sup>152</sup> Brian Fishman and Andrew Lebovich, “Countering Domestic Radicalization, Lessons for Intelligence Collection and Community Outreach,” New American Foundation, June 2011, 9.

## D. CONCLUSION

As demonstrated in this thesis, the NYPD provides a series of good practices that other municipalities could follow. It gives organizations the guidelines to start their own unique intelligence and counterterrorism divisions within their establishments. State entities need to begin taking the fight against terrorism seriously and stop relying on the federal government to conduct counterterrorism operation. The NYPD has taken the fight against terrorism personally and is willing and able to do whatever it takes to prevent another 9/11 style attack on their soil. States need to hold themselves responsible for the prevention of homegrown domestic terrorism, and become more aggressive in their fight to prevent this increasing threat. The Heritage Foundation reported in April 2012 that 50 serious homegrown terrorist plots had been foiled since 9/11.<sup>153</sup> This number continually rises year to year and proves that there are people in this world who wish harm to Americans, which require more emphases on the counterterrorism mission our nation faces.

If organizations haven't already begun incorporating intelligence and counterterrorism divisions within their organizations, they need to do so. If they haven't included information sharing capabilities in their immediate goals with either regional fusion centers or with other local entities, they need to do so. And lastly, state organizations need to begin training their personnel to effectively operate in the intelligence and counterterrorism field either by establishing state and local law enforcement intelligence schools or developing a syllabus and training doctrine that facilitates the proper needs in order to produce the top intelligence officers need to excel in this mission area. Although the NYPD has stirred up criticism in the debate over domestic intelligence, their methods prove successful considering there hasn't been a successful terrorist attack in NYC. Their aggressiveness has put several suspects committed of homegrown terrorism behind bars and has prevented these individuals from committing terrorist attacks. States need to take responsibility for the fight against

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<sup>153</sup> James Jay Carafano, Steven Bucci, and Jessica Zuckerman, "Fifty Terror Plots Foiled Since 9/11: The Homegrown Threat and the Long War on Terrorism," The Heritage Foundation, April 25, 2012. <http://www.heritage.org/research/reports/2012/04/fifty-terror-plots-foiled-since-9-11-the-homegrown-threat-and-the-long-war-on-terrorism>.

homegrown terrorism and establish their own model following the specific lessons learned by the NYPD described in this thesis.

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