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**FIGHTING GLOBAL TERRORISM  
IN THE 21<sup>ST</sup> CENTURY –  
THE NEW ROLE AND  
RESPONSIBILITY OF LOCAL GOVERNMENTS**

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## **About Christian Regenhard**

Christian Michael Otto Regenhard was born on August 25, 1973. He was raised in Co-op City, Bronx, New York. After graduating from the Bronx High School of Science, he served five years in the United States Marine Corps, leaving as a decorated Recon Sergeant. He traveled extensively, often to remote areas of Central and South America, to pursue his love of rock climbing and diverse cultures. After studying language, art and writing at San Francisco State University, he was hired by the Fire Department of New York (FDNY), graduating from probationary school in July 2001. He was assigned to Ladder 131 when he was killed in the collapse of the World Trade Center on September 11, 2001 at age 28.

## **About the Center**

The Christian Regenhard Center for Emergency Response Studies (RaCERS) is an applied research center focused on development of a mix of grounded theory and traditional empirical analysis in the areas of emergency response, coordination of first responders, and dynamics of large-scale incident management and response. The Center is unique in its devotion to first responder-defined and actionable research on policy aspects of emergency response and homeland security from a perspective inclusive of police, fire, and emergency medical services. *Tax deductible donations can be made care of the John Jay College Foundation, 899 Tenth Avenue, New York, NY 10019.*

## **About the College**

Since its founding in 1964, John Jay College of Criminal Justice has been a leader in the field of public safety, with a diverse variety of academic programs and research capabilities devoted to the study of emergencies and law enforcement organizations such as the fire service, police departments, emergency management offices, and security concerns unequaled by any other academic institution in the United States.

One of the unique aspects of John Jay is its student body. Our students represent a diverse mix reflecting New York, but also the nation and world. Our in-service students include many mid-career emergency responders from virtually every local, state, and federal law enforcement, security, and emergency response organization. As such, we have a unique and long-standing commitment to educating current and future leaders in the emergency response field. John Jay lost over 60 of its alumni, faculty, and students on 9/11. As such, we are uniquely dedicated to enhanced responder safety and effectiveness.

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## **1. Introduction**

New York City has come to represent the “eye of the needle” in the global fight against terrorism. The city has developed one of the most sophisticated counterterrorism organizations in the world, an organization which includes, for example, its own intelligence unit -- working autonomously from federal authorities with agents placed in foreign countries all over the world. These developments do not only signify changes locally in New York City, or changes just nationally in the United States. This signifies changes on the global level - changes in the international system.

To live in New York City is to be surrounded by a machinery of surveillance and security devices: gun boats patrolling the bay; random bag searches in the subway, X-ray machines in office blocks and government buildings; frequent and random deployments of heavily armed special police forces around the city; surveillance cameras and nondescript grey boxes equipped with radio antennae in public spaces. Under the leadership of Mayor Michael Bloomberg and Police Commissioner Raymond Kelly, the New York City Police Department (NYPD) has created an intelligence and counterterrorism organization allegedly larger than many security services of small countries (see for example Nussbaum 2007; Dickey 2009).

The local counterterrorism regime has come to represent the everyday world in New York City. But not many people outside the United States, neither in academia nor among security practitioners, are aware of the massive counterterrorism engagements of the NYPD, or of its global reach.

In this paper I discuss some of the profound changes of the international system along with its new global security environment and how New York City is situated in this context. I argue that while after 9/11 the NYPD was quick to reorganize and mature into its new role in the globalized security environment of the 21<sup>st</sup> century, the rest of the local political system of New York City has lagged behind in the learning and adaptation process. The local political representatives of the city need to realize the extent to which they are now responsible and accountable for what in practice has become a security strategy with global reach and they need to take a more proactive role in devising such policies. The local political representatives of the city need to face up to their own new responsibilities in the practice of civilian control and democratic oversight of the local security apparatus.

## **2. Are we living in a post-9/11 world?**

The fact that the NYPD is able to pursue a massive counterterrorism strategy on a global scale represents a puzzle to traditional theories of International Relations. Security politics and foreign affairs - sometimes referred to as “high politics”- have traditionally been a core function and a policy area monopolized by central national governments. But security has increasingly become a municipal policy area in cities around the world. Based on traditional (realist) theories about the international system, we really do not expect the current NYPD counterterrorism activities to be possible at all and that such activities should theoretically be considered a challenge to the primacy of the US Federal Government. But the White House does not only tolerate it, it actually encourages and commends it. Something has obviously changed.

Scholars as well as practitioners have often said that we are living in a post-9/11 world. After 9/11, we were told that everything changed. According to William Dobson (2006), the general sentiment after the events on September 11, 2001 was that the world had changed, and in an article in Foreign Policy he argues that:

At 8:45 a.m., Sept. 11, 2001, we were living in the post-Cold War era. At 9:37 a.m., just 52 minutes later, as the third hijacked airliner careened into the Pentagon, the post-9/11 era had begun. Everyone told us that everything had changed. (Dobson 2006)

According to Dobson:

A poll taken shortly after the attacks by the Pew Research Center found a remarkable degree of agreement among opinion leaders around the world about what the September 11 attacks represented. In Western Europe, 76 percent of those polled said the events of that day had amounted to a turning point in world history. In Russia and Asia, 73 and 69 percent of people agreed. In the Middle East and Latin America, the percentage of opinion leaders who believed 9/11 marked the beginning of a new era rose to 90 percent. Rarely have so many agreed about the meaning of a single moment. (Dobson 2006)

President Bush himself declared on September 20th in his address to the joint session of Congress that on September 11, ‘night fell on a different world’. Thus, there was a fairly broad global consensus that the events of 9/11 had changed the world.

However, as Dobson argues this is all based on a misconception. Of course, on an individual level and to millions of people - for all those who were personally affected and lost loved ones due to the horrendous crimes of 9/11 - life will never be the same. To them everything changed. To them it is indeed a post-9/11 world. But from a more sterile academic and structural global perspective, we are not living in a post 9/11 world. If anything, we are still living in the post Cold War era. Without the profound changes that happened 10 years earlier, when the bi-polar system crumbled and fell along with the Soviet Union, we would most likely not have seen a local NYPD counterterrorism regime develop.

It is hypothetically conceivable that something like 9/11 could have happened, also during the Cold War and under the bi-polar system. However, we would probably have seen a very different political response to it. Under the international security conditions during the Cold War, the White House would most likely not have allowed any global adventures by any local agencies such as the NYPD on the scale we are seeing today. It is not even likely that the NYPD would have seen such expansion as an option, because we all saw the world very differently back then.

Despite being a highly significant historical event with global ramifications, 9/11 did not involve or represent a *structural* change to the international system. The changes had already happened a decade earlier. Rather, to a large extent it was because of the lack of actions and adaptation by the federal government of the US in the wake of those changes a decade earlier that 9/11 could happen.

### **3. Changes in the international system**

What then, are the major shifts that have taken place in the international system after the end of the Cold War? Historically we have seen several systemic transformations taking place where changes have induced new distinctive features to the system. One often mentioned example is the transition from the medieval system of fluid and overlapping jurisdictions into the modern Westphalian system of nation-states with distinctive territorial boundaries. Historical records reveal a great diversity of interacting units in international systems, such as city-states, city-leagues, various forms of empire, and nomadic tribes, organized in various structures ranging from a spectrum of pure interdependence between the units to total domination of a particular unit. The modern state system, with its structurally and functionally similar units, is actually a rather unique and short-run historical moment (see for example Ruggie 1998; Curtis 2010). Thus, the fact that over the course of the past 20 years we have again witnessed changes to the system is nothing new per se.

During the Cold War, the life of security officials, experts and academics was fairly straight forward. We lived in a bi-polar world, based on the balance of power. And in a bi-polar world, balance of power – however delicate of a task - is not very complicated. During the Cold War it was clear to both parties who the adversary was, and therefore also who to negotiate with if negotiation was needed. Of course, things could become very dangerous at times, like during the Cuban Missile Crisis, but in general the security environment was fairly uncomplicated.

Since the end of the Cold War, security officials, experts and academics have continuously debated how to best define and describe the features of the current system. Some have argued that it is a uni-polar world dominated by the US (see for example Wohlforth 1999; Krauthammer 1990/1991); while others have argued it is a multi-polar world with various rising powers such as the EU, China, India and possibly others besides the US (see for example Snyder 1997; Huntington 1999).

Irrespectively of how we see it, if compared to a bi-polar world, things become more complex in a uni-polar as well as in a multi-polar world since balance of power becomes more volatile. In a uni-polar world the hegemon will have to struggle with sustaining its power and there will be constant challenges. In a multi-polar system the options for alliances multiplies and it therefore becomes a complex task to sustain the balance of power.

#### **4. And then there is globalization...**

Other scholars and experts have argued that due to processes of globalization, the international system has changed so profoundly that we cannot even speak of a system of only states any more. Besides states, there are also NGOs, multinational corporations, international organizations, global social movements and various types of private actors which are interacting and have leverage on global politics and outcomes. The contemporary changes taking place at both micro and macro levels involve high technology, the compression of time and space, the intensification of consciousness of the world as a whole, increasing movements of capital, information, goods, people, labor and raw materials, increasing interdependencies and the declining importance of state borders and territory (Harvey 1990; Robertson 1992; Scholte 2005; Held & McGrew 2000).

The modern international system of states, made up of distinct, disjoined and mutually exclusive territorial states is still present, but is at the same time conceding to a system of overlapping authority and a multi-layered flexible governance system which allows for a wide range of new actors on the international arena. It involves an increasingly fluid nature of policy-making environments which implies an enhanced need for actors to engage in policy-issues at a variety of levels and through a multiplicity of channels. Hedley Bull has used the term 'new medievalism' to describe the emerging order in the wake of globalization (Bull 1977).

Authority and governance are increasingly spread among various public and private actors at the international, national, regional and local levels. Contemporary policy-making environments involve an enhanced need for actors to engage in policy-issues at a variety of levels and through a multiplicity of channels since many issues and problems cannot be resolved without cooperation between a range of jurisdictions, from local to global. The world has transformed into a more complex polycentric system of multiple localities and overlapping regions challenging traditional ideas of jurisdictional integrity and state-centrism (see for example Skelcher 2005).

## **5. The “new” security environment**

Since the end of the Cold War, studies of international relations (IR) have been largely dominated by issues concerning globalization and the ‘new’ security environment, and Western security institutions have become increasingly preoccupied with the management of global security risks, rather than with deterring threats from other states (Cha 2000; Williams 2008). The traditional definition of security has been all about the territorial security and integrity of the state and the traditional study of security has not been concentrating on the goal of security as much as on the means to pursue it. A narrow security definition implies mainly two things: the threat to security is a *military* threat and the means to overcome the threat is by *military* force (Baldwin 1995: 129).

But since the end of the Cold War the definition of security has been changing and today it is not too controversial to affirm that security includes other matters than military ones (Betts 1997). In the post-Cold War era, threats are still perceived as originating from state-based enemies wielding military resources, but also increasingly as coming from less defined sources such as terrorist networks, organized crime, flu outbreaks, natural disasters and infrastructure breakdowns.

Scholars in Security Studies have increasingly recognized that the separation of national and international affairs is problematic in the contemporary rapidly changing interdependent world and argued that there is a dissolving divide between internal and external security questions (Walker 1993; Rosenau 1997; Bigo 2007; Eriksson & Rhinard 2009). The globalized world with its intense transnational flows of people, goods, capital and information involves new types of threats to security. Since security concerns and measures are finding their way into the everyday life of every sector and every region of the world, security issues are becoming increasingly multi-level and cross-sectoral (Eriksson & Rhinard 2009).

## **6. Global cities in the new security environment**

In the globalized world, cities in general and global cities like New York in particular have become central nodes of transnational flows of people, goods, capital and information. By being the central infrastructure or the very architecture of globalization, by being the command posts of the global economy and in being the central nodes of transnational flows of people, goods, capital and information also means that cities and urban regions have become central cross roads in the new security environment.

It is probably only with some difficulty one can speak of urban security studies as a field of its own. But during the last decade an increasing number of interlocking fields of research have started to focus on urban security dimensions such as terrorism, critical infrastructure failure, and crime. Abrahamsen et al. (2009) argues that cities have become key sites for contemporary international security practices such as surveillance and monitoring of flows of capital, humans and information. Jon Coaffee and David Murakami Wood (2006) argue that security as a contemporary concept, practice and commodity has been rescaled and reterritorialized as it has become more civic, urban, domestic and even personal. They highlight in particular the localized responses to new security challenges, which means that cities are becoming ‘militarized’ or ‘securitized’ in response to crime and fear of crime and as strategic sites for large-scale interventions, from protest and riot to terrorism and war. Safety and security have become issues in municipal politics all over the world. Events such as 9/11, the London and Madrid bombings, but also the SARS crisis and Hurricane Katrina have all highlighted the importance of cities

and their local authorities in the management of various global security challenges.

Traditionally, one of the most basic tenets in military theory that goes back to Sun Tzu and thus the 4<sup>th</sup> century BC is that cities should be avoided in warfare (Warren 2002:615). Urban war zones are understood as posing serious challenges to military tactics, communications and weaponry and have been associated with low performance and high cost. However, since the end of the Cold War, there has been an evolving revision of the military urban doctrine and today western security forces assume that their military presence in cities, for humanitarian reasons, in peacekeeping, and for homeland security, is unavoidable (see for example Morrison Taw & Hoffman 1994; Desch 2001; Warren 2002).

The need for a new urban military doctrine resulted in the Military Operations in Urbanized Terrain (MOUT) doctrine, which has primarily been formulated in the US after the end of the Cold War. MOUT was initially developed based on the assumption that military operations were to be carried out in cities outside the developed world but the doctrine has also increasingly provided a template for police and military strategies used to respond to large political mobilizations of citizens in, for example, Barcelona, Brussels, Gothenburg, Los Angeles, New York, Quebec, Washington DC and Seattle, where several MOUT tactics have been used to deny people engaged in political mobilization access to specific areas in the city (Warren 2002:615-616). According to Stephen Graham (2010), the police forces in London, Toronto, Paris and New York have started to use the same non-lethal weapons as the Israeli army is using in Gaza; and the construction of security zones around strategic financial cores and government districts in London and New York are directly imported techniques used in overseas military bases and green zones. The militarization of urban space is according to Graham (2010: XVIII) also evident as military tactics and technologies developed for urban war-zones are increasingly being used in security operations at international sports events and political summits in western cities.

Savitch (2010: 253) argues in a similar way that cities and city politics today represent the ‘trenches’ in the ‘war against terrorism’. The distinctions between policing, intelligence and the military are becoming blurred, as are the distinctions between war and peace, between local, national and global operations (Bigo 2007). This is perhaps most clearly illustrated by the “War on Terrorism” which has had highly localized and especially urban domestic fronts, while at the same time being fought on a global scale. According to Savitch (2008:3-7) approximately three out of every four incidents which are labelled as terror attacks, and four out of every five of its subsequent casualties, occur in cities. In the last four decades, cities have been subject to more than 12,000 incidents deemed as terrorism, causing over 73,000 casualties. Savitch argues that the complexity of cities makes them ideal to hide terrorist plots, and after the events of 9/11 in 2001, it became evident that al-Qaida and other terrorist networks have operated with impunity in a number of European, South Asian and Middle Eastern cities. As cities are centers of power they are also magnets for media attention. Densely populated urban space facilitates extensive loss of lives, and damage to buildings with strong symbolic meaning generates high levels of anxiety for large populations. The various and complex functioning of the city can be undermined and disrupted not just by the attack itself and its immediate aftermath, but also by the insertion of a continuous existential insecurity (Molotch & McClain 2003).

The increasing use of the city for maximum impact of terrorist attacks has made public security and protection a central issue on many local political agendas (Clarke and Chenoweth 2006; Savitch 2008). According to Clarke and Chenoweth (2006), local governments play an increasingly critical role in homeland security politics. Many cities around the world are in the process of developing

comprehensive counterterrorism strategies. A national survey conducted by the RAND Corporation one year after the 9/11 attacks found that already in 2002, 26 percent of the local law enforcement agencies in US metropolitan areas had developed specialized terrorism units and integrated counterterrorism functions in their departments (Davis et. al 2004; 2010). Local law enforcement agencies around the world are developing their own intelligence networks and are sending their officers to work with other police forces in other countries and creating liaisons with foreign agents. In the US, cities such as New York, Los Angeles, Washington DC, Miami, Las Vegas, Seattle and Houston are all sending their officers to work overseas with foreign police and intelligence agencies as well as accepting liaisons from foreign forces (Frost 2009: 370ff).

### **7. The lack of US adaptation to the post-Cold War world**

By the time of 9/11, the federal government of the US was fully aware of the profound changes in the international security environment, but it had still failed to adapt. For several years before 9/11 happened, the U.S. Commission on National Security/21st Century, commonly known as the Hart-Rudman Commission, had been working on trying to figure out what to do with the US security apparatus built for the Cold War, but now needing change due to the changed security environment.

In February of 2001, the Hart-Rudman Commission published its third and final report called *Roadmap for National Security, Imperative for Change*, in which one of the main recommendations was to establish ‘a new National Homeland Security Agency to consolidate and refine the missions of the nearly two dozen disparate departments and agencies that have a role in U.S. homeland security today’ (Hart-Rudman Commission 2001: vi). The report basically argues that the new geopolitical circumstances after the end of the Cold War together with significant changes brought about by globalization – where sharp distinction between foreign and domestic no longer apply – demands a re-organized American security model. One of the main reasons for the need of a Homeland Security Agency was that ‘mass-casualty terrorism directed against the U.S. homeland was of serious and growing concern’ (Hart-Rudman Commission 2001: vi).

The insight of the changes of the international context, as well as of the new security threats was thus already there, but the federal government had been too slow to act on them. 9/11 became a ruthless wakeup call. It also became a precipitating event that forcefully set in motion a series of long overdue political reorientations and re-organizations. And since much of the preparatory work on for example how to construct a new agency for homeland security had already been made, one of the biggest reorganizations to ever take place in the federal government could be pushed through fairly quickly.

## **8. Counterterrorism becomes a local concern**

Up until the events in September 2001, counterterrorism had been considered to be a federal concern. According to the 9/11 Commission Report, 'Before 9/11, with the exception of one portion of the FBI, very little of the sprawling U.S. law enforcement community was engaged in countering terrorism' (9/11 Commission Report 2004: 82). The NYPD occasionally investigated terrorism and political violence, but most often in (forced) cooperation with the FBI. This order of things was profoundly altered during a few months following the events of 9/11, as the previous federal issue now was not only constructed in terms of a 'global war' – but it also became a local concern. There was a profound realization that security can no longer be all about 'high politics' monopolized by the federal government - it has to involve all levels of government.

After the President had announced the establishment of the new Office of Homeland Security on September 20<sup>th</sup>, counterterrorism quickly became an issue on virtually every state and local officials' agenda in the country. The months after 9/11 turned into a nationwide brainstorming session on homeland defense at the local level. Proposals came from state and local officials including ideas such as instituting armed sea marshals on cruise ships; background checks for the use of flight simulators, increased security of meat inspections to prevent contamination; and repealing the ban on concealed weapons to permit people to be armed to help fight terrorist attacks (Glaberson October 5, 2001).

Mayors from the National League of Cities had regular meetings with Homeland Security Director Tom Ridge at the White House to discuss the new role of cities and local governments in protecting the homeland (Brinkley January 15 2002). As the DHS was eventually established, twenty-two agencies, such as the Customs Service, the Federal Emergency Management Agency (FEMA), the Secret Service, the US Coast Guard, and some 170, 000 federal employees were put under the control of one single organizational structure. The creation of DHS meant that most of the operational activities of domestic preparedness were put in the hands of state and local agencies and that the federal government came to rely heavily on state and local governments for policy support and operational contributions (Noftzinger et. al. 2007:45-46).

Counterterrorism became firmly established as an intergovernmental issue and there is by now a general consensus that state and local levels of government have an important role to play. But exactly how this intergovernmental cooperation is supposed to look like has remained a disputed issue.

## **9. New York City and the local counterterrorism regime**

After 9/11, counterterrorism became one of the key priorities of the city, and this represents a major shift in municipal policy. 9/11 happened in the middle of the Mayoral election campaign in New York City. The primaries were originally scheduled to be held on September 11, 2001 but due to the events on that day, the election was postponed until September 25. In the general Mayoral election, held on November 6, 2001 Republican candidate Michael Bloomberg was elected, endorsed by outgoing Mayor Giuliani.

Within one month of taking office in January of 2002, Bloomberg and his new Police Commissioner Raymond Kelly had initiated two large organizational changes of the NYPD: first, an entirely new Counterterrorism Bureau was created; and second, the small Intelligence division was radically

revamped and expanded. While prior to 9/11, the NYPD had assigned only a handful of officers to terrorism related cases, after 9/11 around 1,000 officers became engaged full-time representing an expenditure of around \$200 million dollars per year.

Counterterrorism in New York City is currently built around three central organizational pillars, two of which are entirely local, meaning owned and operated by the city itself, and one which is intergovernmental. The locally owned and operated ones are the two units within the NYPD - the Counterterrorism Bureau, and the Intelligence Division. The intergovernmental part is represented by the Joint Terrorism Task Force, mainly made up of the FBI and the NYPD, but also by a number of other local, state and federal agencies such as the Port Authority, Border Patrol, Coast Guard etc. The JTTF existed before 9/11, but in the aftermath of the attacks it was radically expanded and reorganized.

#### *9a. The Counterterrorism Bureau*

The Counterterrorism Bureau (CTB) was created at the beginning of 2002. The primary mission of the organization is to develop policies and procedures to guard against the threat of international and domestic terrorism in New York City.<sup>1</sup>

The CTB is staffed by around 350 civilian and uniformed personnel, and the Office of the Deputy Commissioner for Counterterrorism includes a number of heads of operations; a Planning and Policy team which is responsible for the review, analysis, and development of initiatives, policies, and legislative agendas related to counterterrorism; and an infectious disease specialist advising on medical issues relating to chemical, biological, radiological and nuclear threats. The CTB organization includes senior uniformed Borough Counterterrorism Coordinators responsible for operations in their respective patrol borough, working under a citywide coordinator.

As part of its counterterrorism strategy, the CTB regularly deploys heavily-armed paramilitary-style units to strategic locations throughout the city, such as tunnels, bridges, transportation hubs and facilities, and at city landmarks such as Times Square or the Statue of Liberty. The deployments are random and intended to be a massive show of force for deterring and interrupting potential terrorist activities. The CTB also conduct Transit Order Maintenance Sweeps (TOMS), teams of officers stopping, boarding and inspecting subway cars; and subway container inspections and explosive trace detection in which officers examine bags and other containers carried by subway passengers; as well as vehicle checkpoints and radiological checkpoints at roads, tunnels and bridges around the city. These operations represent the uniformed activities of the CTB. The CTB also includes a civilian intelligence analysis unit called the Terrorism Threat Analysis Group (TTAG) which performs strategic intelligence analysis from both open source and classified material.<sup>2</sup>

The Counterterrorism Division is a subunit of the CTB staffed by both civilians and police officers, and this unit develops counterterrorism projects, develops and delivers counterterrorism training and manages various public-private partnerships. The Division is divided into seven subunits with different capabilities and responsibilities. One of the subdivisions, the Threat Reduction Infrastructure Protection Section (TRIPS) works with identifying critical infrastructure around the city as well as

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<sup>1</sup> [www.nyc.gov/html/nypd/html/administration/counterterrorism\\_units.shtml](http://www.nyc.gov/html/nypd/html/administration/counterterrorism_units.shtml)

<sup>2</sup> [www.nyc.gov/html/nypd/html/administration/counterterrorism\\_units.shtml](http://www.nyc.gov/html/nypd/html/administration/counterterrorism_units.shtml)

developing protective strategies for those sites. A team of investigators visit facilities throughout the city, identify vulnerabilities, and develop comprehensive protection plans with site managers. TRIPS include police officers, urban planners and engineers and one of their aims is to make sure that security standards are being considered in all building projects around the city.

Other subunits of the Counterterrorism Division include for example: the Chemical, Biological, Radiological, Nuclear, and Explosives Section (CBRNE), which conducts research and tests new technologies used to detect such weapons and develops plans and policies for their use; the Maritime Team, which is responsible for increasing harbour security; and the NYPD SHIELD Unit, which manages a public-private partnership providing training and information to the private sector. One of the largest projects developed and managed by the Counterterrorism Division is the Lower Manhattan Security Initiative (LMSI), which is a surveillance project covering lower Manhattan south of Canal Street intended to protect the financial district. The LMSI includes increased police presence in the area, surveillance technology, and a public-private partnership with public agencies and private entities in the area.<sup>3</sup>

The *NYPD Shield* is a public-private partnership focusing on New York City's private security managers. It was launched in 2005 and is administered under the CTB. According to the official *NYPD Shield* website the program is tasked with providing best practices, lessons learned, counterterrorism training opportunities, and information sharing. Furthermore, it is intended to serve as an umbrella organization and a clearinghouse for threat updates and key information. The *NYPD Shield* also includes *Operation Nexus*, where the goal is to increase counterterrorism awareness among small business owners and suppliers who might unwittingly be selling material to terrorists, and in 2007 members of the Intelligence Division had made over 25,000 visits to such firms. Operation Nexus is a nationwide network that encourages business owners, operators and their employees to report anomalies in purchases of goods and specialized rental equipment or whenever they encounter or discern anything unusual or suspicious that they believe may have possible links to terrorism.<sup>4</sup>

#### *9b. The Intelligence Division*

After 9/11, the NYPD Intelligence Division moved from focusing on criminal intelligence to focusing on terrorism intelligence. It is more low profile than the CTB, and can, for example, not be found presented on the NYPD's website (except for a short presentation on a page for recruitment purposes). The Intelligence Division is staffed by approximately 800 people, including both police and civilians (Interview with senior Intelligence Division official, March 9, 2010). Around 400 of these focus specifically on terrorism, while the rest work with, for example, narcotics and gangs. The civilian analysts working on terrorism have diverse backgrounds, including professional experience at, for example, the CIA, the National Security Agency (NSA), the State Department, the OECD, the UN, law firms and the financial services industry. The Intelligence Unit has language skills in Arabic, Farsi, Urdu, Pashto, Hebrew, Russian and Chinese, among others.<sup>5</sup> The Intelligence Unit also includes a Cyber Unit of about 10-12 people spending most of their time surfing chat rooms and websites looking for radical activities with connections to NYC (Interview with senior Intelligence Division official, March 9, 2010).

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<sup>3</sup> [http://www.nyc.gov/html/nypd/html/administration/counterterrorism\\_units.shtml](http://www.nyc.gov/html/nypd/html/administration/counterterrorism_units.shtml)

<sup>4</sup> <http://www.nypdshield.org/public/nexus.nypd>

<sup>5</sup> <http://www.nypdintelligence.com/>

The Intelligence Division also includes an International Liaison Program (ILP) where the NYPD stations officers overseas in Europe, in Asia and in the Middle East. The ILP is funded privately through the New York City Police Foundation, and the budget has not been made public. The program was launched as a pilot project in 2002, where one officer was sent to Toronto in Canada to interact with the Canadian law enforcement counterparts on threats to New York City. Since then, the NYPD has expanded overseas and currently assigns NYPD detectives to 11 cities around the world - London, Paris, Madrid, Lyon, Tel Aviv, Amman, Abu Dhabi, Singapore, Toronto, Montreal and Santo Domingo. The NYPD deploys one person in each city, assigned to be stationed there for a two year period at a time. The ILP detectives are assigned to live in their respective foreign country and to serve as the department's liaison to that country's law enforcement and intelligence community. A central objective is to establish relations with their foreign counterparts. But they do not have any operational functions, they work more as antennas for NYPD and gather information. These NYPD detectives are unarmed and not directly involved in investigations and enforcement actions. Their primary objective is to foster the exchange of information, and best practices among and between the law enforcement professionals<sup>6</sup> (Wirtz & Sullivan 2009; interview with senior Intelligence Division official, May 24, 2012).

The NYPD officers deployed overseas are not operating in a vacuum; they are part of various forms of formalized transnational partnerships. The international liaison program is based on bilateral agreements, either treaties or Memorandums of Understanding (MOU). For example, in 2008 Commissioner Kelly signed an agreement with Colonel Muhair Al Khatri Al Nuaimi of the Abu Dhabi National Infrastructure Authority, United Arab Emirates. As part of the agreement, the two organizations cooperate in counterterrorism training and intelligence sharing and the NYPD has one officer embedded full-time in the National Infrastructure Authority headquarter in Abu Dhabi (Bradley 2008; NYC Press release 2008-034). Earlier the same year, an agreement was signed between the respective heads of NYPD and the Madrid Municipal Police formalizing a liaison program. The agreement allows the NYPD and the Madrid Municipal Police to assign members of their respective departments to posts in Madrid and New York City with the main objective of sharing information and working together on counterterrorism (NYC Press release 2008-PH02). The ILP detectives are normally embedded in the Headquarters of the agency with which the NYPD is cooperating. The foreign partners also have the option of sending their people to New York and the NYPD, and every once and a while they do, but none of the cooperating cities have anyone stationed with the NYPD permanently (Interview with senior Intelligence Division official May 24, 2012). In addition to the formalized partnerships, the NYPD has sent officers to assemble information and to accumulate knowledge to most locations where there has been a large terrorist attack in recent years, such as Madrid, Istanbul, Amman, London and Jakarta.

### *9c. The Joint Terrorism Task Force (JTTF)*

The first JTTF in the United States was established in New York City in 1980<sup>7</sup> as a response to domestic terror, and was originally set up by 10 NYPD detectives and 10 FBI agents. Today the New York City JTTF is comprised of nearly 60 local, state and federal agencies, and staffed by 300 people

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<sup>6</sup> <http://www.nycpolicefoundation.org/NetCommunity/Page.aspx?pid=322>

<sup>7</sup> Prior to September 11, 2001, the United States had 35 JTTFs. There are now over 100 Joint Terrorism Task Forces nationwide in the US, comprised of federal, state and local law enforcement agencies forming partnerships against terrorism.

working in squads<sup>8</sup> specializing in different world regions and terror groups<sup>9</sup>, plus around 100 analysts with advanced degrees and experience from various other intelligence agencies. But the major stakeholders are still the NYPD and the FBI and they roughly comprise an equal ratio of people, although with a slight majority of FBI personnel. After the 9/11 attacks, the NYPD increased the number of detectives and supervisors posted to the JTTF from 17 to 125 and assigned them to the operational control of the Counterterrorism Bureau.

The NYPD officers working for the JTTF are reporting directly to the Deputy Commissioner for Counterterrorism. Other participating agencies are, for example, the Port Authority of New York and New Jersey, New York State Police, and various DHS agencies like Border Patrol and the US Coast Guard. The NYPD decides itself which officers to place at the JTTF, but after being placed at the JTTF, the NYPD detectives have to sign an agreement to operate under the authority of the FBI. They are given training by the FBI, and they will also be given the full federal authority of an FBI-agent which means they can for example execute a federal arrest, or a federal warrant. They are also given the same security clearances as regular FBI-agents; this clearance provides the NYPD officers at the JTTF access to national level classified intelligence. They also have to operate under federal guidelines. All of the administration in the JTTF is done according to FBI rules, meaning that all paperwork is done according to FBI standards and goes through the FBI chain of approval (Interview with former FBI-agent, December 15, 2010).

A central concern in the organization has been to break down all institutional barriers between the participating organizations and a key element in that endeavor has been co-location. By sharing not only the mission, but also office space and paper work on a daily basis, involves a repetition that builds trust. The JTTF has significantly improved the relationship between the NYPD and the FBI (Interview with former FBI-agent, December 15, 2010).

## **10. The problems of intergovernmental coordination**

Both scholars and practitioners have often referred to 9/11 as one of the biggest federal government failures in American history (see for example Zegart 2007; Clark 2008). If resentment towards both the state and federal levels of government was a defining characteristic of New York City's intergovernmental relations before 9/11 (see for example Berg 2007), such resentment was considerably deepened in its aftermath.

After Bloomberg and Kelly took office on January 1<sup>st</sup> 2002, the 'realization' that the city could no longer rely on the federal government and federal agencies like the CIA or the FBI either for its protection or for information became the central narrative in relation to the re-organization of the NYPD and even proclaimed as the official explanation for the need of increased local counterterrorism capacities. In the mission statement of the CTB official website it is stated that:

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<sup>8</sup> Each squad is comprised of about 20 people, usually 9-10 FBI agents, 7-8 NYPD detectives and 3-4 of the others. Each squad is supervised by an FBI agent and an NYPD sergeant as the second in command.

<sup>9</sup> Although three of the squads are organized based on local geography and the outline areas of New York - one is located in the Hudson Valley, one in Westchester County and one on Long Island.

Built upon the realization that the City could not rely solely on the federal government for its defense, the Counterterrorism Bureau was created by Police Commissioner Raymond W. Kelly in 2002 as the first unit of its kind in the nation<sup>10</sup>

A senior official at the NYPD Intelligence Unit tells a similar story:

After 9/11 Kelly didn't want to rely on the federal level anymore. The federal authorities failed in protecting the city. Kelly wanted autonomous capabilities, and put together our own resources. (Interview with senior official in the NYPD Intelligence Unit, March 9, 2010)

A former senior official of the CTB further argues that:

Before, terrorism was a federal responsibility, but after 9/11 happened there was recognition that we could not leave this up to the feds alone anymore. The federal government is really very restricted in what they can do in terms of counterterrorism, because of federal laws. FBI does not have the possibility of acting defensively like we do, they can only react or intervene in plots. They have no real plenary power. (Interview with former senior official of the CTB, May 16, 2012)

A senior official at the Intelligence Division argues that the NYPD took 9/11 'personally' and 'decided unilaterally' to go ahead and assemble its own counterterrorism capabilities, and that there was not much debate about it internally (Interview, May 24, 2012). But even as New York City decided to 'go at it alone', a central idea was still that the federal government should pay at least a good part of the bill, and in this respect the relationship with the federal government has been characterized by a great deal of frustration among public officials in the city. The federal anti-terror aid the city has received is according to city officials minimal and far less than what has been needed (Berg 2007:118). Police Commissioner Kelly has also often been quoted in the press making critical remarks on the federal failures to help New York City fund its efforts to protect itself. In an interview in *The New Yorker* in 2005, Kelly admitted that the federal administration had begun to do more, but that it was still not nearly close to what it should be: 'We're still defending the city pretty much on our own dime... We're defending the nation here. These are national assets.' (quoted in Finnegan 2005).

One of the central findings in the 9/11 Commission Report, and subsequently one of its main recommendations, had to do with the lack of information and intelligence sharing; and so, the report calls for better collaboration and sharing of information between local, state and federal agencies concerning threats of terrorism (9/11 Commission 2004:328). However, the years following 9/11 have been marked by "jurisdictional" struggles taking place between the NYPD and the FBI, and the FBI has continuously opposed and questioned whether New York has the right to expand in the manner it has.

According to a former CIA officer, who had also been working for the NYPD during the reorganizations, the NYPD counterterrorism activities were highly controversial to the FBI: 'Sure there is a common enemy in terrorism, but to the FBI, the real enemy is the NYPD' (Interview with former CIA officer, December 3, 2010). The complaints have been coming from both directions, and the FBI has been especially critical of the NYPD's overseas deployments. Neither Police Commissioner Kelly, nor his deputies have publicly denied that for many years after September 11, the relations between the NYPD and the FBI were resentful. Deputy Commissioner Cohen was quoted in the *City Journal* saying about the FBI that: 'For a long while ... their attitude was: If you're not under our control, you're out of control.' (quoted in Miller 2007). During a speech at the Council on Foreign Relations in April 2009, Commissioner Kelly admitted:

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<sup>10</sup> [www.nyc.gov/html/nypd/html/administration/counterterrorism\\_units.shtml](http://www.nyc.gov/html/nypd/html/administration/counterterrorism_units.shtml)

There was some, you know... we've assigned people overseas, and there was some I think resistance to that in the federal government, sort of, "Who are they?" You know, "This is our job; who do they think they are?" But of course, we're a city that has been attacked twice and we want to do everything we possibly can do to see that it doesn't happen again. (Hearing transcript, Council of Foreign Relations 2009)

The JTTF has improved the relationship between the NYPD and the FBI significantly, but it is still problematic. The NYPD officers working for the JTTF are actually considered to be FBI by other NYPD employees. Due to security clearance issues, the NYPD officers at the JTTF are not always allowed to share their information with colleagues at the NYPD. The NYPD people assigned to the JTTF therefore face some serious challenges for serving as boundary spanners between the organizations. The relationship has been especially tense between the JTTF and NYPD Intelligence Division:

There has been a lot of bad blood and clashes. Cohen prides himself for being an antagonist to the JTTF. The problem before 9/11 was a lack of information sharing, so what is the point of creating a new unit and then not share information? (Interview with former FBI-agent, December 15, 2010)

The internal relationship between the two organizations has in some respects even further complicated coordination and created new jurisdictional overlaps. There are currently three different organizations in New York City working with intelligence – the CTB, which has its own intelligence unit; the Intelligence Division; and the JTTF. And these three units are not necessarily talking to each other. In many respects, the intelligence community is even more fragmented and disorganized now than it ever was before.

## **11. The lack of democratic oversight**

If compared to many other American cities, New York's police set their policies with a very high level of independence and a low level of civilian oversight. As noted by Faiza Patel, co-director at the Brennan Center for Justice and NYU Law School:

In New York, however, there is no oversight body that monitors the police to ensure that their policies and practices comply with local, state, or federal legal standards. The bodies charged with supervision are either weak, lack jurisdiction, have no independence, or all of the above. The NYPD's internal affairs bureau comes under the supervision of the police department itself. The mayor's commission to combat police corruption has no power to compel the police to provide witnesses or documents. The civilian complaint review board hears complaints by the public only against individual police officers. Meanwhile, the city's department of investigation has inspectors general for 300 city agencies, but not one for the NYPD. (Patel 2012)

What remains is the Mayor and City Council. Mayor Bloomberg has since day one said 'leave security to the experts' (see New York Times, November 2, 2001) and he has granted Commissioner Kelly more autonomy and independence than any other Commissioner.

On the federal level, the US Congress plays a crucial role in providing democratic oversight of the intelligence community and national security policies. This is one of their most challenging tasks, and also one of their most important. In order to be able to perform their task of oversight, some of the members of the US Congress have to obtain security clearances; it would be highly problematic without it. Democratic oversight is an absolutely central function in security politics in the free world. The City Council of New York City can be seen as the counterpart to Congress in the local governmental system. Aside from passing local laws, the City Council has jurisdiction over the passage of the city's budget. The City Council also holds the function of providing democratic oversight of the executive branch agencies, including the NYPD. The oversight function is carried out

through public hearings where the heads of agencies come to testify before the Council about their activities.

While the NYPD quickly developed and matured into its new role in homeland security and developed far-reaching counterterrorism capabilities, the rest of the political system in the City has been slow to follow. Ever since the massive reorganizations and reorientations of the NYPD took place after 9/11, the City Council has been unsuccessful in performing its oversight function. More importantly, the City Council has not yet fully realized what an important new role it has been given since 9/11. For the first ten years following 9/11, the City Council became an unfaltering supporter of the NYPD counterterrorism activities, largely with no questions asked. The Council has at many times showed an immature attitude and a lack of insight of its own role as it has, for example, seemed less concerned with overseeing the specific counterterrorism tactics and strategies, than with ensuring that enough resources are being allocated. In the budgetary hearings in 2010 the speaker of the City Council, Christine Quinn asked Commissioner Kelly the following:

...with the growing number of terrorism responsibilities this department has and delivers on so incredibly well on a regular basis in ways we don't even know about, how does the decreasing number of officers you're being budgeted for affect your ability to get the job done? (Hearing transcript City Council budget hearings March 11, 2010)

Quinn thus admits to not knowing about the ways the NYPD conducts its counterterrorism efforts, and apparently did not see it as a problem. As long as the NYPD 'gets the job done', there will be no questions asked. However, in order to be able to perform its function of democratic oversight, council members must inform themselves about the ways in which counterterrorism is performed – it is their responsibility.

As criticism of the NYPD started to flourish in the media following the series of Associated Press articles in 2011-2012 regarding NYPD's 'spying' on the local Muslim Community, the long friendly relationship between the City Council and the NYPD came to an abrupt end. When the Budget process started in March 2012, Police Commissioner Kelly encountered a new and rather hostile attitude from the Council members of the Public Safety Committee at the Public Hearing. As always when it comes to rules and laws there is room for interpretation but it appears that the NYPD has followed the Handschu guidelines.<sup>11</sup>

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<sup>11</sup> The Handschu Agreement is a binding agreement overseen by a federal judge and came about in a 1985 court ruling of a class action suit against the NYPD. The agreement regulates police surveillance of political activity and the original agreement stipulates that the NYPD is not allowed to investigate political activity before having specific knowledge of criminal activity. After 9/11, the NYPD argued that prohibitions in the guidelines interfered with their ability to prevent terrorist attacks. In 2002, the NYPD therefore proposed to a federal court that the terms of the guidelines be modified and the court agreed. The modified guidelines begin by stating: "In its effort to anticipate or prevent unlawful activity, including terrorist acts, the NYPD must, at times, initiate investigations in advance of unlawful conduct." The new Handschu rules also state: "The NYPD is authorized to visit any place and attend any event that is open to the public" and "to conduct online search activity and to access online sites and forums on the same terms...as members of the public." The department is further authorized to "prepare general reports and assessments...for purposes of strategic or operational planning." Contrary to what the AP articles have argued, the 'spying' activities by the NYPD are therefore not necessarily illegal (see Silber 2012).

The question is therefore not as much a legal one concerning the right or wrong-doing of the NYPD as it is a political/democratic choice to be made. There is a very important distinction between what is *illegal* and what is democratically/politically *problematic* or *contentious*. The debate so far points to a typical feature in the political world surrounding intelligence – the intelligence community (in this case the NYPD) can serve as a convenient scapegoat for erroneous decisions and non-decisions by policy-makers.

As the intelligence authorities of the NYPD have increased, so should oversight of how these new powers are used. Up until now, the NYPD has been left to make all decisions on its own, for good or for bad. In a world where police departments are starting to act more and more like military organizations, civilian control becomes increasingly crucial. An open democratic system should not simply let ‘experts’ run the show. Admittedly, it is certainly a challenging endeavour to obtain efficient democratic oversight of counterterrorism in the local setting. Security clearance for all members of the Public Safety Committee of the New York City Council seems like an unrealistic alternative at the moment, so other possibilities need to be discussed.

## **12. Towards effective public oversight**

In June 2012, a bill to create an inspector general’s office to independently monitor the NYPD was introduced by members of the City Council. The proposed inspector general would be appointed by the mayor, serve a seven-year term and oversee a budget of \$5 million. While the main reason for the bill has been the controversial ‘stop-and-frisk’ policy of the NYPD, the counterterrorism activities by the NYPD have also been put forward as an argument for strengthened independent oversight. This proposed bill, although still far from being adopted, is potentially a first important step towards a long overdue adaptation and a sign that at least the City Council has an increasing insight of its own responsibility to oversee the NYPD’s policies and practices. On the federal level, agencies like the FBI and the CIA operate under a system including an independent inspector general reporting regularly to Congress. And as Patel notes:

History has shown, time and again, that government operates best when it can be held accountable. This is especially true of police departments, whose activities have enormous impact on our daily lives, and of intelligence agencies that operate in secret. (Patel 2012)

While increased oversight and transparency is not always correlated with better preventative and pre-emptive performance, constant steps should be taken to eliminate the risks of corruption and political gain while ensuring that the intelligence community acts maturely and cooperatively (see Baldino 2010). The time has come for the local political representatives of New York City to face up to their responsibility for what in practice has become a security strategy with global reach, and they need to take a more proactive role in devising and monitoring such policies.

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