State of New York

DEC 29 2014

Department of State
Secretary of State

State of New York

Executive Chamber

No. 140

EXECUTIVE ORDER

DECLARING AN EMERGENCY IN ORDER TO APPOINT NEW JERSEY AND CONNECTICUT POLICE OFFICERS AS RAILROAD POLICE OFFICERS TO PROVIDE ENHANCED SECURITY ON COMMUTER TRAINS, BUSES AND FERRIES

WHEREAS, the holiday season, including New Year's Eve and Day, is a time of heightened alert and risk of terrorist attack as terrorists typically consider significant, symbolic dates when planning attacks, with the objective of inflicting mass casualties and maximizing the economic and psychological damage to the United States, as evidenced by the 2009 Christmas Day plot to blow up a Detroit-bound airliner; the November 2010 plot to bomb a holiday tree lighting ceremony in Portland, Oregon, by a homegrown violent extremist; the December 2010 attack on a market filled with Christmas shoppers in Stockholm, Sweden, by a suicide bomber; and the December 2010 arrests in the United Kingdom of 12 individuals plotting to conduct attacks during the holiday season; and

WHEREAS, New York State has historically been targeted by terrorists, including the World Trade Center bombing in 1993; the attacks on the World Trade Center on September 11, 2001; the Brooklyn Bridge Plot in 2003; the Financial Centers Plot in 2004 targeting the New York Stock Exchange and Citigroup Center in New York City and the Prudential Plaza in Newark, New Jersey; the 2007 plot to blow up jet fuel supply tanks and the pipeline that fed the tanks located underneath the John F. Kennedy International Airport; the May 2009 plot to bomb a Bronx synagogue and the Stewart Air National Guard Base; the failed plot of Faisal Shahzad in May 2010; the May 2011 plot by Ahmed Ferhani and Mohamed Mamdouh to bomb New York City synagogues, during which Ferhani and Mamdouh discussed additional targets in New York City, including churches and the Empire State Building; the October 2012 foiled attempt by Quazi Mohammad Rezwanul Ahsan Nafis to detonate a 1,000 pound car bomb outside the Federal Reserve Bank of New York in Lower Manhattan; the planned attacks by Qazi and his brother in November 2012 directed at landmarks in New York; and the recent indictment of Mufid Elfgeeh, a Rochester resident who is alleged to have provided material support to the Islamic State (often referred to as ISIS or ISIL), all of which demonstrate that terrorists continue to pose a persistent threat to the State of New York; and

WHEREAS, while there is no known confirmed threat to the New York metropolitan area, New York transportation systems have been repeatedly targeted by terrorists, including: the 2013 al-Qa'ida directed plot to derail a passenger train traveling from Toronto to New York; the Zazi plot against New York City subways in 2009; the 2008 plot by Bryant Neal Vinas aimed at the Long Island Railroad; the 2006 plot to bomb the Port Authority-Trans Hudson (PATH) train tunnels; and the 2004 plot to bomb Herald Square in Manhattan. The targeting of transportation systems by terrorist groups is further demonstrated by the bombings in London in 2005 and in Madrid in 2004; and

WHEREAS, thousands of commuters travel between the states of New York, New Jersey and Connecticut via mass transit systems that include interstate rail, bus and ferry systems accessible to the public, and enhanced law enforcement presence on these conveyances is prudent to protect public safety; and

WHEREAS, the recent rise of the Islamic State terrorist organization further exacerbates the terrorism threat environment facing New York State; and

WHEREAS, on September 24, 2014, in response to this heightened concern of terrorist activities, New York State and New Jersey formalized its counterterrorism partnership through a Memorandum of Understanding whereby, in response to the current threat environment, additional security measures and protocols were agreed upon in an effort to bolster the security posture of the Bi-State Region; and

WHEREAS, over the last several months, members of the Islamic State have used social media sites to repeatedly call on sympathizers to carry out attacks within the United States and Western countries in any manner or way, including using a knife or ax and committing acts of violence; and

WHEREAS, terrorist attacks have recently occurred in the same manner as the Islamic State has been encouraging as evidenced by the recent hatchet attack on four (4) New York City police officers in Queens, New York; two (2) attacks on military personnel in Canada; and the taking of 17 hostages, resulting in the death of two (2), at a café in Sydney, Australia this month; and

WHEREAS, the Islamic State, al-Qa'ida, and their supporters continue to issue threats in an attempt to motivate homegrown terror attacks in the United States; and

WHEREAS, New York's sister states, Connecticut and New Jersey, have agreed to deploy police officers to provide increased security on commuter trains, buses and ferries going in and out of New York State; and

WHEREAS, sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey are restricted in their law enforcement authority once such a conveyance crosses the jurisdictional boundary between Connecticut and New York or between New Jersey and New York; and

WHEREAS, New York, New Jersey, Connecticut are all members of the Emergency Management Assistance Compact ("EMAC"), which allows for mutual assistance and resource sharing among sister states; and

WHEREAS, EMAC provides that emergency forces from the sending state, while operating within the jurisdictional boundaries of the receiving state pursuant to the compact, shall have the same powers (except that of arrest, unless specifically authorized by the receiving state), duties, rights and privileges as are afforded forces of the receiving state in which they are performing emergency services; and

WHEREAS, to utilize the police resources provided by our sister states, we must confer police officer powers, including arrest powers, on such officers while they are within the geographic jurisdiction of New York State; and

WHEREAS, Section 88 of the Railroad Law authorizes the Superintendent of the State Police to appoint any person as a railroad police officer only under prescribed circumstances and subject to certain limitations; and

WHEREAS, if such circumstances and limitations were applied to sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey who are serving as railroad police officers from December 31, 2014, through 12:01 A.M., January 2, 2015, such application would prevent, hinder and delay action necessary to respond to a terrorist attack or a threat thereof; and

WHEREAS, Section 29-a of the Executive Law authorizes the suspension, alteration and modification of statutes, local laws, ordinances, orders, rules or regulations, or parts thereof, if compliance with such provisions would prevent, hinder or delay action necessary to cope with a disaster emergency and the inclusion of any other terms and conditions;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby find that a disaster may be imminent, and to which the affected local governments are unable to respond adequately

without assistance. Therefore, pursuant to the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, I hereby declare a State Disaster Emergency effective December 31, 2014; and

FURTHER, pursuant to the authority vested in me by Section 29-a of the Executive Law to temporarily suspend and modify specific provisions of any statute, local law, ordinance, order, rule or regulation, or parts thereof, of any agency during a State Disaster Emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the disaster, I hereby temporarily suspend and modify, for the period from 12:01 AM on December 31, 2014 until 12:01 AM on January 2 2015, the following laws for purposes of appointment of sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey as Railroad Police; and

Subdivision 1 of Section 88 of the Railroad Law insofar as it requires the Superintendent of the State Police to appoint railroad police officers only upon the application of a corporation, express company, or steamboat company, is modified to the extent necessary to allow the Governor to appoint, and I do hereby appoint, sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey as railroad police officers, and to include all rail and bus facilities and property owned, operated or in the custody or control of the Port Authority of New York and New Jersey or its subsidiaries, the Metropolitan Transit Authority or its subsidiaries, New Jersey Transit or its subsidiaries, and ferries certified to carry passengers to and from New York State; and

Subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16 and 17 of Section 88 of the Railroad Law, as necessary to effectuate this Order; and

FURTHER, this Order shall take effect at 12:01 AM on December 31, 2014 and shall remain in effect until 12:01 AM on January 2, 2015, at which time the suspension of laws may be extended upon consideration of a continued heightened alert of terrorist attack.

GIVEN under my hand and the Privy Seal of the State in the City of Albany this twentieth-ninth day of December in the year two thousand fourteen.

BY THE GOVERNOR

Secretary to the Governor