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THESIS

**THE STUDY OF COUNTERTERRORISM MECHANISMS
IN TAIWAN**

by

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December 2013

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ABSTRACT

The 9/11 terrorist attack remains one of the darkest moments in American history and has had a great impact on the global strategic relationship in the beginning of the twenty-first century. To respond to this incident, Taiwan and the United States exchanged information and intelligence and signed the Sino-American Mutual Legal Assistance Treaty, which represents Taiwan's willingness to participate in and cooperate with the international community in regards to information exchange, security, and anti-money laundering activities and in strengthening an emergency response mechanism.

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The purpose of this thesis is to assess whether this two-track mechanism—the separation of intelligence and response systems—can respond efficiently to a major terrorist attack and whether a comparison of the approaches and experience of the United States and Japan offers useful insight into how to organize Taiwan's system.

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LIST OF ACRONYMS AND ABBREVIATIONS

CIA	Central Intelligence Agency
DCI	Director of Central Intelligence
DHS	Department of Homeland Security
DNI	Director of National Intelligence
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
FIRA	Foreign Intelligence Related Affairs
NID	National Intelligence Director
NSB	National Security Bureau
NSC	National Security Council
NSPD-1	National Security Directive-1
PSIA	Public Security Intelligence Agency
TTIC	Terrorist Threat Integration Center

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I. INTRODUCTION

A. MAJOR RESEARCH QUESTION

Since the Cold War, the emphasis on counterterrorism has become an important factor that affects the stability of the world. On September 11, 2001, Al-Qaeda, the international terrorist organization led by the late Osama Bin Laden, conducted a shocking terrorist attack against the World Trade Center in New York and at the Pentagon, the home of the U.S. Department of Defense. The World Trade Center, a world economic symbol, was destroyed in the blink of an eye, the Pentagon, a symbol of U.S. military power was severely damaged, and nearly 3,000 people lost their lives. This was the most serious incident in the United States' history since the attack on the Pearl Harbor. The 9/11 terrorist attack remains one of the darkest moments in American history and has had a great impact on the global strategic relationship in the beginning of the twenty-first century.¹

To respond to this incident, Taiwan held four high level meetings on September 12, September 20, October 8, and October 22, 2001, and discussed its national security in accordance with the United Nations Security Council Resolution 1373 counterterrorism measure. In addition, an Ad Hoc 9/11 Briefing was presented to the political parties and the leaders of parliament, and an Ad Hoc 9/11 Group was established to deliberate on 55 response plans and 21 burst scenarios with emergency measures including: prevention of biochemical attacks, vaccine procurement, and the distribution of the responsibilities of drills and rehearsals for ministries. Furthermore, Taiwan and the United States exchanged information and intelligence and signed the Sino-American Mutual Legal Assistance Treaty, which represented Taiwan's willingness to participate and cooperate with the international community in regards to information exchange, security, anti-money laundering, and strengthening an emergency response mechanism. These plans illustrate

¹ *National Defense University Collection, Research Papers Album on September 11 Incident in the United States and the War on Terror* (Taipei: Ministry of National Defense, Office of Military History and Policy, Translation Office, October 2002), 1.

the willingness of Taiwan to combat terrorism internationally.² At the time, the Taiwanese government, under the idea of “Taiwan needs to have what others have,” established a Counterterrorism Office in January 2004, which was reorganized as the Office of Homeland Security in 2007.³ The Office of Homeland Security does not directly carry out intelligence gathering and counter-terrorism tasks. Instead, it combines intelligence from different intelligence apparatuses for further research, analysis, and lateral communication and consultation. If a potential terrorist plot is discovered, the office proposes that the Executive Yuan adjust the nation’s level of alert from green to yellow or red and take other appropriate defense measures. The purpose of this thesis is to assess whether this two-track mechanism—the separation of intelligence and response systems—can respond efficiently to a major terrorist attack and whether a comparison of the approaches and experience of the United States and Japan offer useful insight into how to organize Taiwan’s system.

B. IMPORTANCE

Twelve years after the terrorist attacks of September 11, 2001, the war on terrorism has not reduced the threat from terrorism.⁴ Terrorist attacks occur everywhere from the Middle East to Asia and beyond, the October 2002 Bali bombing, the July 2005 London bombing, suicide attacks at different U.S. consulates, and the November 2008 Mumbai attacks, and most recently the 2013 Boston Marathon bombing. Countries still struggle to prevent terrorist attacks, and how to prevent terrorism has become a common worry in the world.

For many years, countries like the U.S. have possessed better counterterrorism mechanisms and related response measures to prevent terrorist attacks against their homelands. Before the 9/11 strike against the U.S., Japan, located in East Asia like

² Lin Chengyi, “Implications of the September 11th Events on the International Relations,” *International Affairs Quarterly Publication* 2 (2002): 2–26.

³ Executive Yuan’s conference on strategic policies of internal security (natural disaster prevention, mobilization, counter terrorism) reorganized the Counter Terrorism Office as the Homeland Security Office, August 16, 2007.

⁴ Ivan Sascha Sheehan, “Has the Global War on Terror Changed the Terrorist Threat? A Time-Series Intervention Analysis,” *Studies in Conflict & Terrorism* 32, no. 8 (2009), 758.

Taiwan, had focused its territorial security system on preventing natural disasters. It was not until after the 9/11 attack that Japan began to face squarely the threats of terrorist attacks on its nation and people and began actively to establish its counterterrorism mechanism.⁵ Since terrorist attacks have rarely occurred in Taiwan, our ally countries' experiences can provide valuable lessons for the Taiwanese government to review its own counterterrorism mechanisms.

Taiwan has a long and close relationship with the U.S. and could be seen as a brother country of the U.S. by terrorists. The Taiwanese homeland could be a proxy setting for a chance to retaliate against an ally of the United States. It has been over 12 years since the 9/11 terrorist attack. It is necessary for the Taiwanese government, in reference to the advantages of the major countries' counterterrorism systems, to research and amend its related laws and organizations and build counter-terrorism mechanisms that meet Taiwan's current situation and needs. Therefore, this thesis focuses on two dimensions. First, it reviews the current counterterrorism policies and operations and proposes a proper and complete counterterrorism strategy to effectively respond to terrorist attacks. Second, it provides suitable counterterrorism mechanisms and reminds decision-makers of the importance of establishing preventive measures in advance to ensure people's lives, property, and national security.

C. PROBLEMS AND HYPOTHESES

There are two problems and hypotheses pertaining to this thesis, which are discussed in the following sections.

1. The Draft Counterterrorism Law

The damage caused by terrorist attacks in the international community has become more severe, and the injuries and the casualties are not limited to specific people or locations. So far, the office of Homeland Security in Taiwan, which is responsible for directing and promoting the various counter-terrorism organizations, is composed of 11

⁵ Fangyou Huang, "Study on Taiwan's Anti-Terrorism System after 9/11 Attack in USA" (master's thesis, National ChiaoTung University, 2007). <http://ndltd.ncl.edu.tw/cgi-bin/gs32/gswweb.cgi?o=dnclcdr&s=id=%22096NCTU5707011%22.&searchmode=basic>.

people who are temporarily assigned there. Among those 11, seven are on loan from the National Security Agency, Department of National Defense, and police. One major issue regards authority. There is considerable doubt whether such organizations have the capability of planning and integrating the counter-terrorism mechanisms. Moreover, the draft counterterrorism law has not been passed, and the draft fails to designate the legal hierarchy of authority. When terrorist attacks take place in Taiwan, relevant organizations are unable to inform relevant authorities, investigate the incident, and follow up with first response rescue and recovery efforts in a short time. After two men suspected of carrying out the failed bombing attempts in northern Taiwan on April 12, 2013, Interior Minister Lee Hong-Yuan said that each department should reinforce national security authorities and other concerned government agencies in strengthening the country's counterterrorism mechanism and action plans.⁶ If the Ministry of Justice can refer to related departments such as the National Security Bureau (NSB), military police, or police, to formulate the draft counterterrorism law as soon as possible and establish a competent authority to plan and direct the anti-terrorist operations, it will more efficiently and effectively prevent terrorist attacks.

2. Integrating Intelligence Organizations

The other issue concerns coordination. Taiwan's counterterrorism structure and operation mechanisms are composed of the Executive and the Homeland Security system, a two-track system of mutual cooperation. Currently, only the intelligence organizations respond to incidents, but not the executive branch. Therefore, both organizations may not be able to coordinate well. Furthermore, intelligence units, which provide intelligence to the National Security Bureau, involve more bureaus, so the notification and management process is not as clear as the national security system. Notifying different bureaus is inefficient during a crisis.

After the 9/11 incident, the U.S. intelligence system was completely reformed. In 2004, the Intelligence Reform and Terrorism Prevention Act was passed. The act enables

⁶ Claudia Liu, Liu Shihyi, and Wu Sofia, "Taiwan to Tighten Anti-Terrorism Training: Minister," *Taiwan News*, April 17, 2013. http://www.taiwannews.com.tw/etn/news_content.php?id=2198426.

National Intelligence Director (NID) to rule fifteen different systems of intelligence units and integrate the counterterrorism intelligence mechanism.⁷ As for Japan, the 9/11 incident and the incident of the North Korean spy ship's invasion of Japan's territorial sea exposed departmentalism of its intelligence authorities and conducted a thorough reform afterwards. All the intelligence from related authorities must be gathered at the Cabinet Intelligence Concentrated Center. The National Policy Agency, Ministry of Defense and Japan Coast Guard need to strengthen cooperation and joint drills and training in order to enhance Japan's response mechanism to a major crisis.⁸ These two countries' reformed intelligence systems can be good reference points for comparison for Taiwan's system and in pursuit of the most appropriate counterterrorism intelligence mechanism. If the Homeland Security Office can be responsible for coordinating and integrating counterterrorism information and for providing counterterrorism intelligence to the Counterterrorism Action Group, the Executive Yuan, intelligence organizations, and related units, it will shorten the time of reporting intelligence and increase the capabilities of analyzing counterterrorism intelligence.

D. LITERATURE REVIEW

Research on counterterrorism has become a major focus of thought lately, and many countries have devoted an enormous amount of time to counterterrorism. This thesis surveys books that mainly relate to crisis management and counterterrorism, some essays and theses related to national security and terrorism published in the United States and Taiwan, and some websites related to terrorism.

1. Books Related to Crisis Management and Counterterrorism

Counterterrorism warfare is an important part of national crisis management. In *Risk Management: Theory and Framework*, Zhan Zhonguyan discusses the theory of crisis management and the dynamics of the crisis management planning process,

⁷ "National Security Intelligence Reform Act of 2004," *World News General*, <http://big5.cri.cn/gate/big5/gb.cri.cn/2201/2004/12/16/381@393561.htm>.

⁸ Wenling Hung, "A Comparative Study of Legal System in Anti-terrorism," Central Police University Academy report no. 44, 2007.

including five steps and three phases. These are: detecting crisis signals; preparing for and preventing a crisis; damage control; the conduct of recovery; and constant learning and amending. He defines clearly what a crisis is and believes that decision makers' capabilities of managing a crisis determine the consequences of a crisis. The continuity of the crisis follows different steps as it occurs: prodromal crisis, acute crisis, chronic crisis, and crisis resolution. No crisis takes place abruptly and ends immediately. Therefore, the government should focus on management capability, including the formulation of crisis management policy and enforcement.⁹ In addition, the author also compares and analyzes different countries' crisis management systems from the viewpoint of disaster prevention, such as the U.S. Federal Emergency Management Agency (FEMA), and Japan's and Taiwan's disaster risk management systems.

Peter J. Katzenstein discusses Japan's post 9/11 external and internal counterterrorism and national security policy and compares Japan's counter-terrorism behavior with that of other Asian countries.¹⁰ In, *First Inventory of Policy on Counterterrorism: Germany, France, Italy, Spain, the United Kingdom and the United States – 'Research in Progress,'* Rudie Neve, Lisette Vervoorn, Frans Leeuw, and Stefan Bogaerts analyze in detail the change of counter-terrorism laws. These authors also examine the functions of law enforcement authorities and intelligence units of the U.S., France, Italy, and Germany.¹¹ All of these books provide good references for Taiwan in analyzing and comparing different counter-terrorism system and response mechanism.

In another book, *Crisis Thirty Six: The Analysis of Matrix Management Strategy*, Zhan Zhongyuan uses a case-by-case analytical approach and adopts a five-category typology of crises: natural disaster, technological accident, traffic accident, man-made disaster, and regional conflict and war. These five types of crises were first proposed by the crisis management theorists Mayer Nudell and Norman Antokol in their *Handbook*

⁹ Zhongyuan Zhan, *Risk Management-Theory and Framework* (Taipei: Linking, 2004), 4.

¹⁰ Peter J. Katzenstein, *Rethinking Japanese Security Internal and External Dimensions* (New York: Routledge, 2008).

¹¹ Rudie Neve, Lisette Vervoorn, Frans Leeuw and Stefan Bogaerts, *First Inventory of Policy on Counterterrorism*, Wetenschappelijk Onderzoeks- en Documentatiecentrum, Netherlands Ministry of Justice, Cahier 2006, 3a.

for Effective Emergency and Crisis Management, which collects 36 classic cases of domestic and international crisis management.¹² These cases, especially the ones from Taiwan, have great reference value for the Taiwanese people. If crisis managers, in particular, can use matrix analysis well and handle the different stages of a crisis correctly, they will be better able to solve crises successfully.

According to Harry Henderson, terrorist organizations are not just individuals or isolated groups; on the contrary, most of the time they are well-organized, well-planned, and well-financed organizations with tight networks.¹³ In his book, the definition, concept, and factions of terrorism are introduced in detail. It also discusses the most harmful terrorist activities that have the greatest impact on societies from the perspective of international political scholars. The book also compares laws in different countries for dealing with terrorist behavior in detail and lists different types of terrorist organizations existing in the international society.

The Study of Counterterrorism Risk Management Mechanisms by Qiu Jihe, Bu Zhengqiu, and Huang Hongguang analyzes crisis and terrorism and compares the crisis management and counterterrorism mechanisms in the U.S., Japan, and Taiwan. Taiwan can gain a lot of valuable insight from the book, which enhances the two-track structure between homeland security and the Executive Yuan in dealing with terrorist attack incidents. The two-track system and the decision-making structure will modify and enhance counterterrorism-related behavior and implement the existing drills of the two systems of public order and disaster prevention. In order to increase the capability of the Taiwanese response to and management of counterterrorism, there are a few suggestions: (1) strengthen the intelligence informed mechanism between the National Security Council and the Executive Yuan; (2) strengthen the crisis informed mechanism in the Executive Yuan; (3) strengthen the Executive Yuan's emergency decision-making mechanism; (4) separate and manage terrorist crisis incidents at different levels; (5) strengthen the counterterrorism force; (6) strengthen the drills for all types of terrorist

¹² Zhongyuan Zhan, *Crisis Thirty-Six: The Analysis of Matrix Management Strategy* (Taipei: Huatai Culture, 2004).

¹³ Harry Henderson, *Global Terrorism: The Complete Reference Guide* (New York: Checkmark Books, 2001), 1.

incidents; (7) strengthen Taiwan's prevention and protection from poison, nuclear, biological, and chemical attack; (8) establish a roster for counterterrorism personnel; (9) enhance information technology network security; (10) moderately improve the criminal liability of terrorist activities; and (11) continue to strengthen international cooperation with counterterrorism efforts.¹⁴

The Center for Counterterrorism Studies at the People's Republic of China's China Institute of Contemporary International Relations has sorted out the major counterterrorism laws and the United Nations' counterterrorism international conventions and treaties. Counterterrorism experts Wang Fengming, Xia Hongzhi, and Li Huizhi, summarize their experiences in anti-terrorism operations, especially command experiences from the Afghanistan war, Russia's Chechen war and the Moscow hostage incident. They discuss the counterterrorism command system, command methods, operations, procedures, principles, and the art of commanding and implementing the overall effectiveness of $1 + 1 > 2$.¹⁵

Wang Yuwei believes that international terrorism involves factors such as ideology, politics, religion, and culture. Hence military operations are only one method to combat terrorism. Besides military operation, it is necessary to conduct conversations between different civilizations, to respect different cultures, to promote diplomacy with constructive engagement, to conduct unilateral and multilateral economic sanctions, to reduce economic incentives for breeding terrorism, to collect intelligence and infiltrate terrorist organizations, and to strengthen the sanctions of the international convention.¹⁶

In addition, Taiwan still needs assistance from international and regional organizations in establishing its counterterrorism mechanism and enforcing laws by the intelligence organizations. Generally speaking, common problems in international

¹⁴ Jie Qiu, Bu Zhengqiu, and Huang Hongguang, *The Study of Anti-Terrorism Risk Management Mechanisms* (Taipei: Research Development and Evaluation Committee, Executive Yuan, December 2002).

¹⁵ Fengming Wang, Xia Hongzhi, and Li Huizhi, *Anti-Terrorism Command* (Beijing: People, September 2003), 1.

¹⁶ Yuwei Wang, "Taiwan and the Global War on Terrorism," *The Thesis Album of Terrorism and National Security Seminar in the Police University*, December 29, 2001, 41.

counterterrorism policy neglect to eliminate the root causes of terrorism and over-emphasize military strikes. Counterterrorism in the international society should focus not only on real operations, but also on technology, law enforcement, counterterrorism sneak attacks, and hostage negotiations, which are micro-policy issues. However, research on macro-policy of counterterrorism has been neglected. It over-emphasizes striking terrorist forces with military forces and disregards the elimination of terrorism from the root. This thesis integrates the related research from scholars, seeking an appropriate counterterrorism mechanism based on Taiwan's current situation and expecting to establish a sound system.

2. Theses and Dissertations

You Yueging argues that after the 9/11 incident, Taiwan's government activated the national security mechanism, enforced the contingency measures and acts, and prevented the chain reaction of terrorist attacks that infiltrate and endanger national security. Although Taiwan is not the main target of terrorist attacks, it still cannot be excluded as a hiding location for terrorists or as a relay station for criminal activities. The threat of terrorism and the terrorist activities that damage Taiwan's national security and economic benefit, and the increasing need for cooperation with international society to fight against terrorism requires that Taiwan seek a more effective policy to prevent and strike at terrorism. It is also a key moment for Taiwan to review and strengthen its existing structure and policy.¹⁷

Chen Shuanghuan discusses in detail how Taiwan activates its national security mechanism and response measures when facing terrorist attacks. His research is a valuable reference for this thesis, which discusses Taiwan's policy towards counterterrorism from the aspect of policy planning, operation mechanism, enforcement methods, counterterrorism capability, and international cooperation.¹⁸ Other articles, such as those by Zhen Zhenhong, Liu Junsheng, and Cai Qingan offer a preliminary

¹⁷ Yueging You, "Terrorist Attack and Our Anti-Terrorist Strategy" (master's thesis, University of Hsuan Chuang, 2009).

¹⁸ Shuanghuan Chen, "The Study of Counterterrorism Mechanism in Taiwan" (master's thesis, National Chengchi University, 2004).

understanding of the severe damage of terrorist activities, the terrorism phenomena and the status quo of counterterrorism in the international society.¹⁹

3. Related Websites

There are some web sources that are very helpful for researching the development of terrorism and counterterrorism and updating international counterterrorism behavior. These include the major newspapers and websites that report terrorist attacks and counterterrorism measures, such as Yahoo and Google, national laws and database websites and websites related to counterterrorism among international organizations. Moreover, a global terrorism report from the United States Department of State website in 2003 discussed other countries' counterterrorism policies from different perspectives, such as diplomacy, law enforcement, intelligence, financial, and military. This report contains detailed assessments of foreign countries.²⁰

In brief, even though there are many articles, research, and books discussing counterterrorism issues, timeliness and trade-offs of the data are still problematic. Therefore, based on the research results from Taiwan and other countries, we discuss the problems and loopholes in Taiwan's counterterrorism mechanism, hoping that a sound national security mechanism can be established.

E. METHODS AND SOURCES

For a long time, Taiwan has established its homeland security systems based on fighting the military threat from China. However, security threats do not just happen overseas. According to Cai Desheng, the chief of NSB in Taiwan, terrorism has begun to emerge domestically and members of terrorist organizations have become younger and

¹⁹ Zhennong Zhen, "Studies of the 9/11 Event and the Progress of Anti-terrorism" (master's thesis, Management College, National Defense University, 2003); Junsheng Liu, "The Study on Constructing of ROC Homeland Security Mechanism—in Both Division and Integration Approach" (master's thesis, Chinese Culture University, 2004); Qingan Cai, "Influences of 9/11 Terrorist Attacks on the U.S. National Security Policy" (master's thesis, Feng Chia University, 2004).

²⁰ U. S. Department of State, *Patterns of Global Terrorism 2003*, <http://www.state.gov/>.

more tech-savvy.²¹ The situation might worsen if they possess weapons of mass destruction and endanger the security of population centers. Taiwan's national security will be compromised if China adopts terrorist-like military strategies to conduct covert operations in Taiwan, and so Taiwan should prepare countermeasures to handle such situations.²²

By the end of the twentieth century, a country's national security approach should not only focus on military power alone, but it should also expand its approach into different areas. To name a few, these include studying the theory and history of peace and war, understanding the threats pertaining to certain cultures and societies, studying the concept of regional, international, and global security, establishing security laws and systems, studying terrorism and drug dealing, understanding the impact of information technology, studying the decision-making process of crisis, national defense policy and its foundation, studying the nuclear strategic, weapon system and arms limitations and reductions, understanding regional security of the developing world, nationalism, and the proliferation of the sophisticated weapons. We can utilize the following research-based approach in understanding and devising countermeasures against terrorism.²³

The focus of this thesis is to adapt the national security approach, from the homeland security perspective in studying the security issues of national strategy and political system dimensions. This includes analyzing the national crisis management model, and complementing it with natural disaster relief and recovery experiences, the counterterrorism mechanism, laws, and operation mechanism, together with observation, induction, and the analysis of Taiwan's current counterterrorism mechanism. The thesis incorporates an examination of domestic and foreign countries' current counterterrorism mechanisms. By analyzing the crisis management models and the standard operating procedures of Taiwan, the United States, and Japan, we can analyze the effectiveness of

²¹ Sihao Chen, "In Response to Terrorism Domestically and More Tech-savvy, the National Security Bureau Urges the Anti-Terrorism Law be Enacted as soon as Possible," *Central Daily News*, April 22, 2013. <http://www.nownews.com/2013/04/22/91-2929419.htm>.

²² Bohao Qui and Wang Yunzhong, "The Discussion of Terrorism and Counterterrorism Policy," *Military Police Semiannual* 61 (2005), 36–45.

²³ Mo Tahua, "Exploring the Security Studies Debate," *Issues and Studies* 37, no.8a (1998), 19–20.

Taiwan's national security system and counterterrorist mechanism. Therefore, we can then offer useful suggestions for the government to enact related laws and regulations or revise its mechanism. The research methods are listed in the following paragraphs.

1. Literature Analysis

Domestic and foreign books, journals, papers, the Internet, and newspaper reports which are related to crisis management and operation help evaluate the crisis management model of the counterterrorism mechanism.

2. Comparison

Having a presidential system, the United States can respond more rapidly to emerging situations than parliamentary countries because a president is often less constrained than a prime minister.²⁴ Before the 9/11 attack, the U.S. counterterrorism mechanism focused abroad; after 9/11, the U.S. turned its attention to the mainland. Moreover, the government has started to integrate related departments and established the Department of Homeland Security, which is responsible for counterterrorism. This reform demonstrates the president's determination to establish a top to bottom mechanism. Japan is a country with a parliamentary system. The emperor is just the symbol of a state and does not hold real power. Since Japan has felt the threat of terrorism recently, it also realizes the importance of a crisis management mechanism which is led by the prime minister. The president shares executive power with the prime minister. Both the president and prime minister have legal authority to direct the operation of a counterterrorism mechanism; however, their command responsibilities could overlap one another. This is similar to Taiwan's constitutional system. By analyzing these countries, we can be enlightened about their crisis management models and incident command systems.

²⁴ "Presidential System," *Wikipedia*. http://en.wikipedia.org/wiki/Presidential_system.

3. Induction

After analyzing literature and comparing other countries' counterterrorism mechanisms, we can determine their merits and pitfalls and gauge the feasibility of our current mechanism in order to improve its operation.

F. THESIS OVERVIEW

The purpose of this research is to study Taiwan's counterterrorism mechanisms. Chapter II describes the national security risk management models, types of terrorism and their current progress, the principles of counterterrorism, and the application of these principles to revise a nation's counterterrorism mechanism and standard operating procedures. Chapter III discusses the counterterrorism mechanisms of the United States and Japan, which are used as references for improving Taiwan's own counterterrorism model. Chapter IV examines whether the revised model is in compliance with existing Taiwanese regulations. Chapter V offers the conclusion and suggestions for further research.

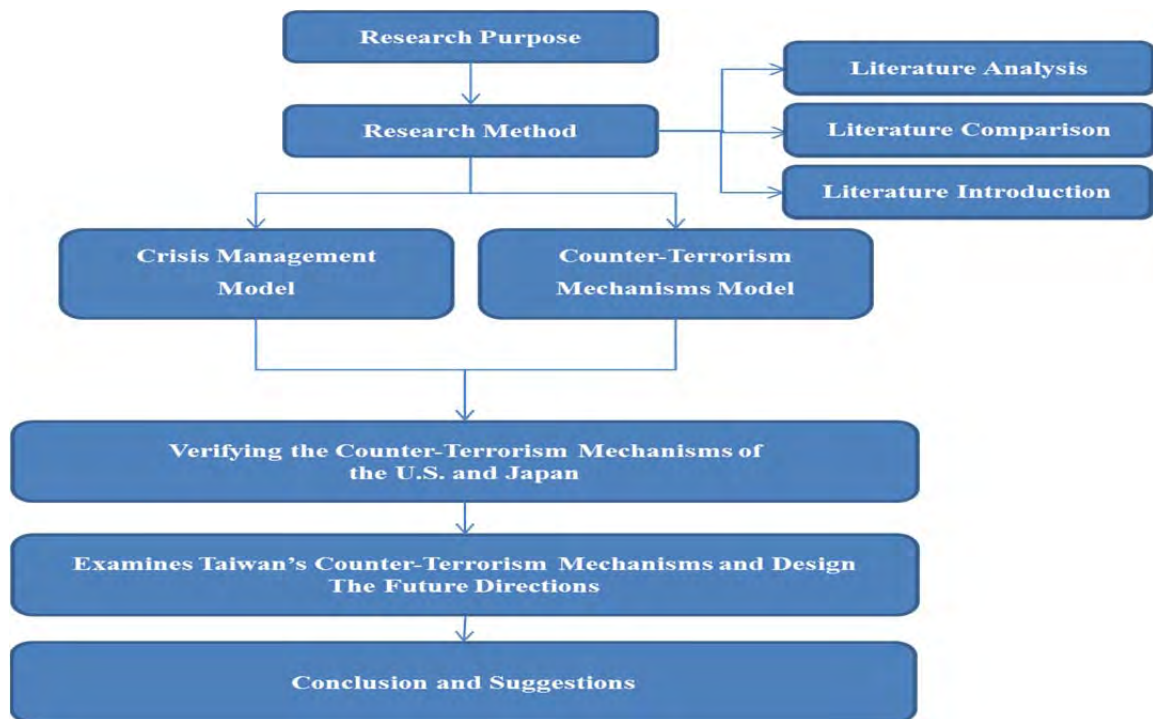


Figure 1. Research Project Framework.

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II. CRISIS MANAGEMENT AND COUNTERTERRORISM

The damage caused by a crisis affects the public's social lives and derails society. The protection of public security and society's stability encourage the government to solve the disorders of the society and reduce the loss caused by a crisis. Most of the time, a temporary ad hoc crisis management committee or institution deals with a crisis while the administrative officials are the leaders. Each bureau and its personnel and resources will be utilized by the crisis management committee or institution to deal with the event. One such crisis can be a terrorist attack and its resulting impact on individuals, society, and the country. Therefore, this chapter provides an overview of government crisis management methods and theory and then further discusses the development of counterterrorism and the implementation of the counterterrorist mechanism.

A. METHODS AND THEORY

Due to the uniqueness of each crisis, the management methods used in responding to these situations should be different from dealing with regular governmental issues.

1. Definition of Crisis

Terrorist attacks initiate a country's crisis management; hence, it is necessary to understand what constitutes a crisis. The concept of crisis can be traced back to the ancient Greek era. Crisis in Greek, *krimein*, means "to decide." Therefore, crisis can be explained as a decisive and critical moment. Webster defines crisis as the point of time when it is to be decided whether any affair or course of action must go on, or be modified or terminated; the decisive moment; the turning point.²⁵ Robert Heath believes that there are three key elements for handling a crisis: 1) gaining more time in which to make decisions and deploy resources effectively, 2) gaining more and better information, and 3)

²⁵ Webster's New Twentieth Century Dictionary, 2nd Ed. (New York: William Collins Publishers, 1975), 432.

reducing the costs and losses involved. Heath believes that “disaster, urgent situation and crisis” are the same concept.²⁶

Zhan Zhongyuan included three common elements for a crisis:

- Value Neutrality. Whether a crisis is resolved successfully depends on how it is managed. In addition to the nation’s operating mechanism, commander’s quick reactions are also an important factor to fight terrorism successfully.
- Time Continuity. According to the crisis management expert Steven Fink, any crisis will have four stages, prodromal crisis, acute crisis, chronic crisis, and crisis resolution. No crisis takes place promptly and ends all of a sudden. Therefore, government should focus more on management ability, including policy making and implementation for crisis management. As for dealing with urgent incidents, it is in the stage of acute crisis that a commander’s clear understanding of the incidents, rather than technology, is required.
- Responsibility and Freedom. Because of the essence of the first two elements, it is a decision maker’s responsibility to manage a crisis. Commanders cannot default on their responsibility due to the suddenness of a crisis. Furthermore, a decision maker’s responses during each phase of crisis must be positive and proactive. As matter of fact, when dealing with crisis, there should be more than one plan and commanders should have freedom to choose the best option.²⁷

2. Model of Crisis Management

Robert Heath’s 4R model is reduction, readiness, response, and recovery. Using this model, decision makers should consider how to reduce the chance of crisis, how to be prepared to manage crisis, how to plan and train personnel to respond to a crisis situation, and how to recover quickly from it. Robert Heath believes that the 4Rs are the essence of the crisis management. Professor Ian I. Mitroff’s crisis management model includes five factors: crisis types/risks, crisis management mechanisms, systems, stakeholders, and crisis scenarios.²⁸

²⁶ Cheng Wang, trans., *Crisis Management for Managers and Executives* (London: Financial Times/Pitman, 1998), 11.

²⁷ Zhongyuan Zhan, *Risk Management-Theory Structure* (Taipei: Lianjing, 2004), 3–5.

²⁸ Yongjun Chang, “For Crisis Prevention and Extension Planning Methods” (master’s thesis, Guangdong Technology, 2002), 10.

By contrast, Jay Nunamaker categorizes three stages of crisis development—before the crisis erupted, during the crisis, and post crisis.²⁹ There are different management methods for each stage, as explained in the following sections.

a. *Activities before a Crisis Erupts*

These activities are mainly to assist the authorities in predicting crisis scenarios and eliminating crises before they take place, including establishment of a crisis planning system, crisis training system, crisis sensor system, crisis knowledge data bank, and drill and rehearsal of crisis scenario.

b. *Activities and Facilities during a Crisis*

The activities mainly provide the crisis management team important information and resources. The facilities at which activities are carried out and resources are managed can be divided into three parts:

1. Crisis command center: The center is in charge of assigning work. The crisis management center is composed of decision makers, aides, and a crisis response team, and crisis management expert.
2. Crisis scenario monitor system: The system is in charge of tracing the development of the crisis and reporting to the decision makers in the command center.
3. Crisis source management system: This system is in charge of distributing and allocating sources that are needed when solving a crisis.

²⁹ Jay F. Nunamaker, Jr., Sue E. Weber, and Minder Chen, “Organizational Crisis Management Systems: Planning for Intelligence Action,” *Journal of Management Information Systems* 5, no. 4 (March 1989), quoted in Zhongyuan Zhan, *Risk Management-Theory Structure* (Taipei: Lianjing, 2004), 19–22.

3. Activities after a Crisis Is Resolved

At this stage, it is important to evaluate the facilities and their performance and further provide the result as a reference to the current crisis management process. The main tasks are:

- Establish an evaluation and investigation system and confirm the cause of the crisis.
- Speed up the recovery project.
- Continue to promote next crisis management plan.³⁰

No matter what type of model of crisis management system, the government should always consider the three stages of crisis development and also always follow the four steps of crisis management—reduction, readiness, response, and recovery.

B. APPLICATION OF CRISIS MANAGEMENT

The essence of a crisis is the eruption of major danger. Therefore, it is a challenge to manage or deal with crisis incidents. Using the four steps of crisis management—reduction, readiness, response, and recovery—to establish a complete crisis management mechanism can effectively prevent injuries to military when operating. Therefore, based on Zhan Zhongyuan's perspective on crisis management, we suggest the establishment of a complete crisis management mechanism to prevent terrorist attacks and reduce accidents when conducting anti-terrorist activities. This crisis management mechanism should address the four steps as follows:³¹

1. Reduction before Crisis Eruption

This step includes measures to eliminate and decrease the possibilities of accident and also evaluate the crisis. For example, such tasks are organizing a variety of disaster prevention drills and rehearsal and establishing think tanks for crisis management.

³⁰ Zhan, *Risk Management-Theory Structure*, 20–22.

³¹ Zhan, *Risk Management-Case Study* (Taipei: Shenzhou, 2003), 45.

a. *Readiness before Crisis Eruption*

In order to develop the capabilities of quick response to a crisis, this step focuses on planning and prevention. For example, activities include checking and updating equipment and tools used in disaster rescue and prevention, and enhancing the rescue team's knowledge of crisis through training.

b. *Response during Crisis*

Instant response is required at this step. For example, tasks include search and rescue, building a quick response mechanism, finding the cause of an accident, and dealing with unexpected incidents.

c. *Recovery after Crisis*

The key for this step is the protection in the short term and the recovery in the long run. It includes, for example, aid and assistance, care and consulting, and recognition of offers of assistance, as well as collecting different opinions and holding a meeting to review the recovery activities.

In conclusion, the best strategy to deal with crisis is to detect the symptoms at the earliest stage and prevent it from happening. Otherwise, it will be more difficult to handle later on and the price to be paid for handling the crisis could be higher. As a matter of fact, the reduction stage is the most important one because prevention is the best cure and the cost of solving a crisis will be reduced to a minimum. This thesis proposes a crisis management approach, which is composed of different modules that are displayed in the following table.

Stage	Module
Reduction	1. Build the concept of crisis evaluation. 2. Hold and participate in drills and rehearsals for disaster prevention. 3. Establish a think tank to respond to crisis management.
Readiness	1. Enhance equipment supply and maintenance. 2. Increase rescue team's professional knowledge of crisis through training.
Response	1. Search the site and rescue. 2. Build a response mechanism. 3. Find the cause of the incident. 4. Deal with unexpected incidents.
Recovery	1. Emphasize consultation. 2. Collect opinions and hold a meeting for review afterwards. 3. Pass on the rescue experiences.

Table 1. Different Stages of Crisis Management.

In brief, good crisis management system focuses not on handling an already erupted crisis, but on observing in advance the existence of crisis warning signals and dealing with them properly to lower the risk as much as possible. Therefore, during the incubation period before the crisis takes place, we should be prepared for it as if it is happening. In addition, to increase our own capability to battle the crisis, we should also be completely prepared for a crisis once it happens.

C. DEVELOPING TRENDS OF TERRORISM

Since the end of the Cold War, the prevalence of terrorism is a main factor causing turmoil in the world.³² As a matter of fact, terrorist activities took place in both the 1970s and 1980s, and since the 1990s,³³ almost all countries have experienced different levels of terrorist attacks. The targets have switched from specific groups to the general public. Furthermore, attack methods have changed from the use of traditional guns and bombs to weapons of mass destruction such as biological and chemical weapons.³⁴ Facing the increasing threat of terrorism, it is necessary for us to understand what terrorism is, how it is defined, as well as how it originated, what types exist, and what their characteristics are. We must also understand the possibility of developing trends in terrorism.

1. Definition of Terrorism

The United Nations convened experts in 1973 and attempted to define terrorism. However, there was no one good definition that could be made and discussion eventually ceased in 1974. In recent years, the U.N. reattempted to define terrorism and has released several related reports on this issue, but still failed to define it. The reason it is difficult to define the concept of terrorism is because of its intricate patterns, subjectivity, and relativity. The following are definitions of terrorism from different sources.

a. *Encyclopedia Britannica*

Terrorism is the systematic use of violence to create a general climate of fear in a population and thereby to bring about a particular political objective. Terrorism has been practiced by political organizations, by nationalistic and religious groups, by

³² Shaojun Li, "The Delimitation of the Concept of Terrorism," in *The Origins of Terrorism*, ed. Yizhou Wang (Beijing: Social Science Academic Press, 2002), 1.

³³ In fact, the first international terrorism event occurred in 1968. Three terrorists of PFLP hijacked the plane of Israel Airline El A1 to Algeria. After extensive negotiation, the terrorists eventually released the passengers, flight crew, and the plane. Henceforth, international hijacking has become common terrorism operations. Quoted and interpreted from Zhongyong Zhang, "The Evolution and Development of International Terrorism," *Strategy and International Research* 4, no. 1 (January 2002), 2.

³⁴ Walter Laqueur, "The New Face of Terrorism," *The Washington Quarterly* 21, no. 4 (1998).

revolutionaries, and even by state institutions such as armies, intelligence services, and police.³⁵

b. *Taiwan's Action against Terrorism Act Draft Article II*

Terrorism is an act perpetrated by an individual or organization based on political, religious, racial, ideological, or other specific beliefs and is intended to cause the public to feel fear. Terrorist organizations, referring to three or more actors, have an internal management structure for the purpose of engaging in organized terrorist acts. Terrorism is not limited to the act itself, but also includes financing, planning, and logistics for the organization.

c. *Department of State*

According to Title 22 of the United States Code (U.S.C.), Section 2656f (d), the term “terrorism” means premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents, usually intended to influence an audience.³⁶

d. *Federal Bureau of Investigation, FBI*

Terrorism is defined in the Code of Federal Regulations as “the unlawful use of force or violence against persons or property to intimidate or coerce a Government, the civilian population, or any segment thereof, in furtherance of political or social objectives.”³⁷

³⁵ Contemporary International Relations Institute of Anti-Terrorism Research Center, *International Terrorism and Anti-Terrorism Struggle* (Beijing: China Culture, 2001), 3.

³⁶ U.S. Department of State, *Patterns of Global Terrorism* 1996, Chapter 1.

³⁷ John Pynchon Holms, *Terrorism* (New York: Pinnacle, 1994), 13.

e. *Federal Office for the Protection of the Constitution (Bundesamt für Verfassungsschutz, BfV, 1985)*

Terrorism is the enduring struggle for political goals which are intended to be achieved by means of assaults on the life and property of other persons, especially by means of severe crimes (murder, homicide, extortionist kidnapping, arson, setting off a blast by explosives), or by means of other acts of violence, which serve as preparation of such criminal acts.

To conclude from all the definitions, terrorism is “an instrument of individuals, groups or nations who use violent actions to provoke fear, anxiety, and restlessness; terrorists are selective with targets that they choose but their goal may actually be to convey a message to the media; terrorism demands will determine the purpose of the group and may be taken by way of terrorist activities.”³⁸

2. History of Terrorism

a. *Terrorism before World War II*

In the first century AD, in order to fight against the Roman Empire’s invasion, Jewish fanatical partisans poisoned the drinking water and assassinated Jewish nobles who cooperated with Romans, which is similar to the methods of some current terrorists. The term “terrorism” first appeared in the French Revolution in the eighteenth century. The ruling party, Jacobin, decided to use Red Terror against counterrevolutionaries in order to protect the new regime. It is not difficult to see that terrorism is not a general, isolated, and occasional act of terror, but rather refers to organized, institutional, and political terrorist activities. Before World War II, terrorist activities were mainly focused on assassinations and poisoning.

b. *Terrorism after World War II*

In the 1960s, terrorist activities took place mainly in the colonies, dependencies, or newly independent nation states such as the IRA in Northern Ireland.

³⁸ Alex P. Schmid and Albert J. Jongman (eds.), *Political Terrorism* (Amsterdam: North- Holland Publishing Company, 1988), 33–34.

During this period of time, terrorist incidents increased rapidly and the methods were various, hijacking, explosion, kidnapping, and holding of hostages. The targets and scopes had gone beyond boundaries and had become more international and gradually became international terrorist activities. Between 1964 and 1980, terrorism was always used to describe violent left-wing groups. For instance, the Red Army Faction belonged to this group.³⁹ After 1970s, terrorist organizations had formed a loose international network and they focused on political targets such as political and industrial leaders. In the 1980s, the focus of terrorists included not only politics but also religious and economic interests that targeted Western aircraft, industry, political leaders, and the judicial system of various countries. New terrorist organizations arose in the 1990s, and terrorist activities have grown gradually since then. They focus mainly on financial centers, transportation, resources, systems of justice, media, and certain individuals.⁴⁰ Terrorist activities take place covertly and are very destructive; hence, it has been hard to prevent these activities which caused great harm to people and property.

In the international arena, terrorism is usually seen as a justification for powerful countries to sponsor a small country's war and military actions. Clearly, the definition of terrorism has been changing in the past hundred years. Until today, the term terrorists has been used to describe an independent group, violent religious fanatics, and some violent groups with specific ideologies such as protecting the environment.

3. Types of Terrorism

To view terrorism from an actor's point of view, it can be categorized into two types: non-governmental and governmental. Governmental terrorism is also called national terrorism and can also be divided into two types: domestic or international. However, non-governmental terrorism is the type that prevails in the world today and which international society has been trying to fight. Non-governmental terrorism includes

³⁹ Rolf Clemens Wagner, "Thoughts on the End of the Red Army Faction (RAF)," *Jungle World*, May 13, 1998, <http://www.hartford-hwp.com/archives/61/206.html>.

⁴⁰ Roger Medd and Frank Goldstein, "International Terrorism on the Eve of a New Millennium," *Studies in Conflict and Terrorism* 20, no. 3 (July-September 1997), 281.

the behavior of a group or an individual, and can also be divided into international and domestic terrorist activities.⁴¹

Scholars define types of terrorism on different bases, such as political motivation, terrorist behavior, and activities' scope. For example, Zhang Zhongyong, a scholar from Taiwan, analyzes motivations and types of international terrorism and categorizes them into five types:⁴²

a. Political Awareness

Terrorism that is based on the political awareness not only includes left-wing and right-wing extremists' organizations, it also includes the countries that use a particular political ideology to harbor or support terrorism.

b. Religious Fanaticism

Religious fanatics are motivated by religious ideology or a sense of sacred duty. Some prominent examples of such groups are the Islamic Shiah and the Aum Shinrikyo (currently known as Aleph).

c. Separation Movement

The Separation Movement involves groups all over the world, who distinguish themselves from others along the lines of nationalism, racism, cultural identity, and religious belief.

d. Racial Exclusion

Racial exclusion can be a motivation for terrorism in a society with higher economic development and significant economic inequality. When local workers' income or job opportunities are taken away by immigrants, the local workers can experience dissatisfaction and frustration, thus setting the conditions for ethnicity to occur. In

⁴¹ Mingming Wang, "The Types of Modern Terrorism," in *The Origins of Terrorism*, ed. Yizhou Wang (Beijing: Social Science Academic Press, 2002), 43–74.

⁴² Zhongyong Zhan, "The Evolution and Development of International Terrorism," *Strategic and International Study* 4, no. 1 (2002), 22–42.

addition, superior consciousness or cultural chauvinism can be possible factors that would cause exclusion.

e. Radical Issues

When a society's economic development and pace of social change cannot do not keep pace with each other, there will be a conflict between social beliefs and concepts of value that further leads to extreme methods of protest. Among the issues related to conflicting social values are those related to nuclear energy, hunting and protection of endangered species, overdevelopment, abortion, etc.

John Deutch, an American scholar, distinguishes three types of terrorist acts: terrorist activities supported by the government, which are also the most dangerous ones, such as activities by Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria; terrorist activities whose goal is to overthrow its own government or to become independent; and terrorist activities that are supported by Islamic groups.⁴³

After researching in detail about terrorism, we categorize terrorist acts based on activity scope and motivation. There are three types of terrorism for activity scope: domestic, national, and international. And there are four types of terrorism in terms of motivation: nationalism, religious fanatics, criminal, and extremist. See Table 2 for a description of the categories and types.

⁴³ John Deutch, "Terrorism," *Foreign Policy* 109 (1997), 10–22.

	Types	Description	Cases
Activity Scope	International Terrorism	Non-state terrorist behavior against another country's people in peace time.	The September 11 attacks by the Islamic terrorists
	National Terrorism	A country's terrorist methods against another country.	The Irish Republican Army in Northern Ireland
	Domestic Terrorism	A government's terrorist methods within the country to rule its country.	The federal building in Oklahoma City was bombed by Timothy McVeigh.
Motivation	Nationalism Terrorism	National pride and identity that lies outside the sovereign nation of which a group is a part.	The Irish Republican Army; Palestine Liberation Organization
	Religious Fanatic Terrorism	A sect of society that feels their religion compels them to take up arms against non-followers.	Aum Shinri Kyo, Hamas
	Criminal Terrorism	Economic incentive.	Italian Mafia
	Extremist Terrorism	Groups that strive for political revolutions.	Action Directe; Rote; Aemee Fakion; The Order; Ku Klux Klan.

Table 2. Types of Terrorism.

4. Future Developing Trends of Terrorism

Future terrorist acts are going to continue to threaten human beings. The former Secretary of State Colin Powell pointed out on November 18, 2002, when meeting with teenage students that there are still many doctrines in the world, and the one that is threatening people is not communism anymore but terrorism. What Powell said brings out the fact that there will be a long period of time in history during which terrorist activities will rage in the world because of all kinds of conflicts domestically and internationally.

The reasons why terrorist acts are growing and getting more destructive are complicated. On one hand, because of the development of new technology, some skills or techniques that only powerful countries have can now be accessed more easily by terrorists. Terrorists can obtain more destructive weapons at a lower price. On the other hand, because of the rapid growth of globalization and modernization, the world's communication and interaction have reached an unprecedented level. Industrialized countries with more advanced information technology demonstrate their prosperity and power; meanwhile, they also expose their weaknesses in front of terrorists.⁴⁴

Because of the new technology, convenient transportation, and ease of access to information, the world has become a global village. The future development of terrorism can be predicted as follows:

- Growing trend of globalization in terrorism.
- More covert form of organization.
- Uncertainty of targets of terrorist activities.
- Terrorist activities are more threatening, more destructive, and more diverse.
- More types of terrorist organizations.
- The use of computer to carry out terrorist activities is more obvious.
- The severity and scope of destruction have increased.⁴⁵

⁴⁴ Jiemian Yang, *The International Terrorism and Contemporary International Relations: The Shock Effects of 911* (Guiyang: Guizhou People's Publishing House, 2002), 46.

⁴⁵ Fengxiu Dan, *Anti-Terrorism Strategy and Countermeasures* (Beijing: Contemporary China Publish House, 2003), 77–82.

Based on these predictions, governments can create a model to help prevent terrorist attacks.

The characteristics of current terrorism vary with the composition of its members, the support source, activity range, target, and the level of influence. Terrorists are always beyond a country's boundaries; as a result, cross-border cooperation or crimes are common. In other words, the threat and impact of terrorist activities are greater and the methods of prevention and the investigation are more difficult. Facing the trend of internationalization and transnational terrorism, it is more important to enhance the capability and role of counterterrorism intelligence, so that a country can be better able to deal with the challenge of international terrorism.

D. COUNTERTERRORISM COMMAND MECHANISM AND ITS ROLE

A counterterrorism command mechanism is a mechanism to distribute and integrate different units and rule the relationship between them. An efficient counterterrorism command mechanism can be either centralized or decentralized and has an acute structure of command.⁴⁶ In brief, a complete counterterrorism mechanism contains a complete organization, a sound command relationship, and good regulation.

1. Types of Counterterrorism Mechanisms

Due to the needs of the counterterrorism war, all countries build their own mechanisms of counterterrorism. Basically there are two types of command: centralized command and decentralized command. Centralized command is the most common; it is also called "a whip." The advantages of centralized command are easily grasped ideas and harmonization. The disadvantages of centralized command are a lack of horizontal connections and communications, which leads to difficulty in coordination and integration, single sourcing, information provided by only superiors, strong reliance on vertical communication, poor continuity when communication is disrupted, and the inability of subordinates to make judgments and decisions. Decentralized command has independent contact points without interaction and connections. In this model, team

⁴⁶ Fengming Wang, Hongzhi Xia, and Huizhi Li, *Anti-Terrorism Command* (Beijing: People, 2003), 13.

members carry out activities based on their own superiors' decisions. The advantages to this model are independence, autonomy, decisiveness, and the ability to control a situation immediately. The disadvantages are that all organizations responding to a terrorist threat differ greatly and a lack of counterpart understanding means inefficiencies in the system, and a lack of integration which leads to fighting terrorists independently.

The current counterterrorism command is a combination of centralized and decentralized command. Centralized command is used on a large scale for greater impact on counterterrorism activities, such as large scale hostage situations. Decentralized command is used for small scale or less significant counterterrorism activities, such as a small scale explosion. Each country has different command systems due to its own situation and type of regime.⁴⁷ The 9/11 incidents revealed the loopholes of the counterterrorism mechanism and miscommunications between countries and different authorities. It made countries review the mechanism and amend the weaknesses.

In this section, we compare the differences and similarities between the U.S. and Japanese counterterrorism mechanisms. Even though they are different systems and have different titles for each organization, their functions are basically similar to each other. For example, like the National Security Council, there are similar mechanisms such as communicating, negotiating, and integrating through think tanks that provide suggestions to leaders. However, there is no specific answer on whether or not the mechanisms need a specific unit to manage related issues. It is more important that there will be a unit to play a key role to integrate all the units. The most important factor when dealing with a terrorist attack is to grasp the situation fast and to give clear command and control, so that the policy can be carried through thoroughly. Both the U.S. presidential system and Japan's cabinet system integrate the commanding unit when dealing with major crisis or making important decisions. Analyzing the advantages and disadvantages of the Japanese and U.S. counterterrorism command mechanism will provide a good reference for Taiwan.

⁴⁷ Ibid., 16–21.

2. Future Trends of Counterterrorism Command Mechanism

An organization could be more efficient by integrating technology into its structure and plan and if it organizes its command structure based on these technologies. The future trend of counterterrorism mechanisms could be separated into two parts:⁴⁸ See Figure 2, 3.

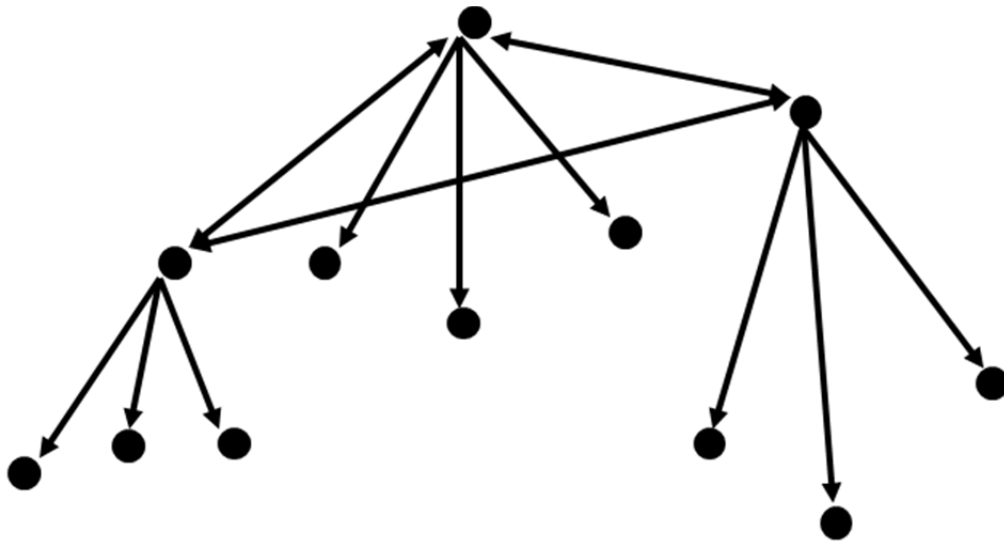


Figure 2. A Hierarchical Mesh of a Command System.

⁴⁸ Ibid., 21–22.

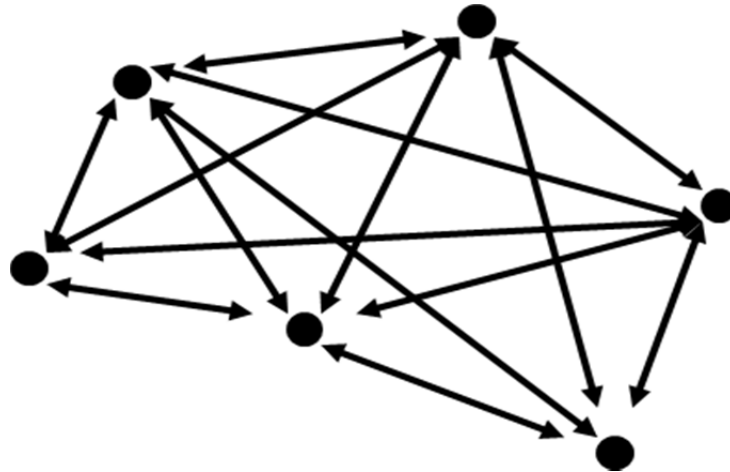


Figure 3. A Comprehensive Mesh of a Command System.

The first command system is similar to Taiwan's joint combat model between different branches, and the second command system is a joint combat model of all the branches that are integrated together. The counterterrorism command mechanism must be based on technology and the capability of integrating technology between organizations for warfare. There are three advantages for this command mechanism: increased speed of command; ensured meaningful existence of the organizations; and a flexible response system of the organizations. The types of terrorist attacks have evolved and renewed gradually; therefore, only by increasing technology can one prevent and deal with all types of terrorist attacks. Counterterrorism mechanisms should always be designed in accordance with this rule in order to be successful.

III. AMERICAN COUNTERTERRORISM MECHANISM

The purpose of crisis management is to assist the government in forming a complete policy to prevent crises and further to deal with crises quickly, manage losses from crises, and recover from crises. Since the end of the 1960s, terrorist activities in the U.S. focused mainly on its military facilities overseas, foreign institutions, or personnel. Therefore, the counterterrorism mechanism must also focus on overseas security. The first terrorist attack on U.S. territory was the explosion of New York World Trade Center in February 1993. The U.S. started to discuss the policy and prevention of terrorism within the territory at that time.

The 9/11 incident led to the large scale adjustment and amendment of U.S. counterterrorism mechanisms. The incident was a big shock to the world. That such a large scale of terrorist attack took place in America, the main country that fights against terrorists, forced the U.S. government to examine its counterterrorism mechanisms. According to the U.S. Government Accountability Office's (GAO) reports, the U.S. counterterrorism system and measures still have problems that need to be solved. They discovered that U.S. counterterrorism strategies were not so well founded, especially in the field of collecting, analyzing, and sharing intelligence; coordinating and integrating between organizations; border security check and immigration control; aviation transport security management; and major disaster management.⁴⁹ Therefore, Congress passed various bills or adopted amendments to strengthen the counterterrorism effort, moved the focus of counterterrorism from overseas to domestic territory, and established the Department of Homeland Security (DHS) to be responsible for the counterterrorism mission. The purpose of all these changes was to overcome parochialism among agencies and to establish a unified structure of power for "homeland security." Meanwhile, the 9/11 incident also spurred other countries to examine their counterterrorism mechanisms, reinforce their related regulations and laws, and reform their intelligence organizations.

⁴⁹ U.S. Government Accountability Office, *Combating Terrorism: Issues To Be Resolved To Improve Counterterrorism Operations*, (May 13, 1999).

In the following chapters, we analyze the U.S. and Japan's response to the 9/11 incident and discuss Taiwan's future possible development in the field of counterterrorism. These two countries use different systems: the U.S. has a presidential system, and the president is the core of the system; Japan uses a cabinet system and the main authority is the premier. These two countries' systems offer a good basis for comparison for Taiwan because Taiwan adopts a dual executive system/semi-presidential system. No matter which system, crisis management still focuses on centered decision making. The decision making bureaucracy is the core organization in charge of making security policy, integrating intelligence, and dealing with crisis and eliminating the possibilities of crisis.⁵⁰

A. DEVELOPMENT AND REFORMATION OF COUNTERTERRORISM MECHANISMS

1. The Basis of Counterterrorism Legislation

a. The National Security Act

Among U.S. laws, there are many that apply to crisis management. The most important one is the National Security Act of 1947. "The National Security Act of 1947 mandated a major reorganization of the foreign policy and military establishments of the U.S. Government." The act serves not only as a reference for the president when dealing with national security affairs, but also as the basis of the national security organizations, national defense system, and national security system. "The act created many of the institutions that presidents found useful when formulating and implementing foreign policy, including the National Security Council (NSC)."⁵¹ The NSC was placed in the Executive Office of the President, and small group of the NSC was hired to coordinate foreign policies with other agencies for the president. Moreover, according to

⁵⁰ Su Jinjiang, "National Security and Crisis Management Mechanisms," *Seminar on the Security in Taiwan Strait and Defense Strategy*, October 20, 2002. www.taiwannncf.org.tw/tforum/21/21-01.pdf.

⁵¹ U.S. Department of State, "National Security Act." <http://www.whitehouse.gov/>.

the act, the Central Intelligence Agency (CIA) was established to serve as the primary civilian intelligence-gathering organization, and the Defense Intelligence Agency was responsible for the main military intelligence in the government.⁵²

b. The National Emergencies Act

This act was passed in 1976. It gives the president power to declare a national emergency when there is an emergency situation meeting the federal regulations. During states of emergency, the president can exercise the special executive powers to issue a number of regulations. Once the emergency stops, these regulations will lapse. When a national emergency is declared because of a foreign threat, the president can under the Act, exercise the special power to limit international payments and money, securities and property transfer. Besides the National Emergencies Act, each state has State Emergency Act, and the governor or the mayor is empowered to declare an emergency in accordance with the act. For example, Cincinnati, Ohio, was declared an emergency on April 12, 2001 due to African Americans' protest against the police. A state or a city could declare an emergency because of severe weather such as a storm or hurricane.

c. The Counterterrorism Act

The Congress passed the Counterterrorism Act in 1996 and regulated that the president must use all necessary means, including covert action and military power to suspend and destroy international terrorist base facilities. The 9/11 terrorist attacks caused great damage and injuries; hence, the U.S. Congress passed the amendment to the Counterterrorism Act to increase the power of the U.S. Federal law enforcement institution. On October 26, 2001, then President George W. Bush signed the Counterterrorism Act, which is also called the Patriot Act, and made it official law to fight against terrorism. President Bush believed that the Counterterrorism Act would provide law enforcement units a method to fight against terrorism while protecting the constitutional rights of American citizens. The U.S. government implemented the act as if

⁵² Ibid.

it were a nation at war. Implementing the act has not only helped the U.S. government deal with current threats but also to destroy and punish terrorists before they can initiate any attack.

2. Development and Innovation of the Counterterrorism Bill

The U.S. started implementing relevant legislation long before the 9/11 incident took place; for example, in 1992, a law was passed to authorize the FBI to investigate any attack on Americans overseas and to arrest terrorists and criminals that violate U.S. law and extradite them back to the U.S. to stand trial. On April 1996, the Counterterrorism and Effective Death Penalty Act was passed to increase punishment on those who launch or finance terrorist activities and also to standardize the regulation of biological warfare agents. Also in 1996, the Immigration and Nationality Act was amended to increase U.S. immigration officials' power to expel and repatriate those who are involved in terrorist activities and to reduce the opportunity to grant amnesty for terrorists. Even though there have been laws to prevent terrorists from endangering the U.S., it was not until the 9/11 incident that the U.S. government became aware of the shortcomings and insufficiency of its counterterrorism act. Since then, the U.S. began to amend its laws and bills; however, there has been dispute regarding which takes precedence the protection of citizens' constitutional rights or the protection of people's lives and property safety. The following are brief description of some of the more important acts.

a. The Patriot Act

Within a week of the 9/11 incident (September 18, 2001), the Senate and the House of Representatives passed a resolution to authorize the use weapons and also passed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (U.S. Patriot Act) on October 26.⁵³ On November 13, 2001, a military order was released and soon became an important reference for other countries' counterterrorism legislation. The Patriot Act reduces the legal restrictions on intelligence gathering, expands the finance department's norms of

⁵³ American Civil Liberties Union, *How the USA PATRIOT Act Redefines "Domestic Terrorism."* <http://www.aclu.org/national-security/how-usa-patriot-act-redefines-domestic-terrorism>.

foreign financial transactions, especially for individuals and entities, and expands immigration laws on detention and repatriation of terrorist suspects. In this act, the definition of terrorists also includes the nation's terrorists. The Patriot Act authorizes intelligence units to investigate terrorist activities and enforce laws. Due to the National Security and Counterterrorism Act, the intelligence units can place surveillance on any individuals and organizations, such as collecting communications records and content, personal information such as firearms purchase records, bank accounts or library records, etc. The Act content is divided into a total of ten issues: Enhancing Domestic Security Against Terrorism, Enhanced Surveillance Procedures, International Money Laundering Abatement and Antiterrorist Financing Act of 2001, Protecting the Border, Removing Obstacles to Investigating Terrorism, Providing for Victims of Terrorism, Public Safety Officers, and Their Families, Increased Information Sharing for Critical Infrastructure Protection, Strengthening the Criminal Laws Against Terrorism, Improved Intelligence, and Miscellaneous.⁵⁴ Also, the National Commission on Terrorist Attacks upon the United States, referred to as the 9/11 Committee, was established and its members can investigate related important personnel, documents, and confidential information. A final report was released in July 2004 containing 41 recommendations on preventing future terrorist attacks, strengthening domestic security, gathering intelligence and on foreign policy.⁵⁵ The U.S. government began the legislation accordingly. The Patriot Act is a Sunset Clause, and on May 26, 2011, President Obama extended three proposals again for four years; the first one is the "roving wiretaps" power, which authorizes monitoring the foreign suspects' telephone communications. The second one is the "library provision." It is an Act that allows the government access to personal records of terrorist suspects. The third one is the "lone wolf" provision which authorizes the government to investigate individual terrorists unrelated to terrorist organizations.⁵⁶ The purpose of this

⁵⁴ *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001*, Public Law 107-56, U.S. Statutes at Large 115 (2001). <http://www.gpo.gov/fdsys/pkg/PLAW-107publ56/pdf/PLAW-107publ56.pdf>

⁵⁵ Gao Yizhong, "Black September," trans. Adam J. Hebert, *National Defense Digest* 7, no. 32 (2005), 4.

⁵⁶ Lisa Mascaró, "Congress Votes in Time To Extend Key Patriot Act Provisions," *Los Angeles Times*. <http://articles.latimes.com/2011/may/27/nation/la-na-patriot-act-20110527>.

Act is to prevent terrorist attacks such as the 9/11 incident from happening again, but because the bill authorized access to personal data and allowed monitoring the content network and telephone communications, there is still controversy between the balance of security and civil rights.

b. *Counterterrorism Act of 2001*

The Counterterrorism Act was passed in September 2001 which would authorize the U.S. 94 Federal Prosecutor to order the Department of Justice, Department of the Treasury, and Department of State to use the system to detect crime. On October 25 of the same year, the Counterterrorism Act Amendment was passed. It strengthened the U.S. government's law enforcement power. Under the Act, the Department of Justice has the right to permanently detain non-U.S. citizens who are involved in terrorist activities in the U.S. prison. On May 8, 2002, the Senate modified the Alien Intelligence Surveillance Act, to broaden its scope for electronic-related surveillance requirements. This enabled the FBI to conduct monitoring of foreigners, not limited to those only related to terrorist organizations, or foreign intelligence workers. In addition, the intelligence agencies now had the right to investigate suspects and their lawyers could provide testimony to the federal jury. After the 9/11 incident, Congress revised the Act several times, and it currently requires the Department of Justice to review each non-US citizen's custody in the United States every six months and to complete a written report to Congress.⁵⁷

c. *Homeland Security Act*

Congress passed the Homeland Security Act in 2002, and the term homeland security was well-known to the world after the September 11 attack. The term was clearly defined and its function and purpose was determined. On the basis of the definition of homeland security, homeland security strategy set three strategic objectives: integration of all national forces to prevent terrorist attacks in the United States; reduce America's vulnerability in regard of terrorism; reduce losses to a minimum when an

⁵⁷ Military History and Translation Office, trans., *Met strategy: National Security Memorandum for the President*, 180.

attack happens and recover from the attack. The same year in July, the Office of Homeland Security (OHS) announced a National Strategy for Homeland Security. The Department of Homeland Security was established in order to integrate a variety of homeland security-related issues and matters, to ensure the border and aviation security, and to strengthen the U.S. ability to combat terrorism.

d. *Domestic Security Enhancement Act of 2003*

The Act, also be called Patriot II or Son of Patriot, is an extension of the U.S. Patriot Act. However, this Act, like the 2001 Patriot Act, is still controversial in regard to human rights and freedoms versus the government need for intelligence gathering. In April 3, 2003, the Department of Justice drafted a “2003 terrorist identification method,” for the effective discovery, search, chase, and prevention corresponding to terrorist actions. With the passage of this Act, the U.S. law enforcement agencies were able to invoke the law to force gathering suspects’ DNA for archiving management.

On August 3, 2007, then President Bush signed an additional act to strengthen government’s counterterrorism measures. The Domestic Security Enhancement Act takes advice from the 9/11 Incident Investigation Commission’s report of July 2004 and provides 41 foreign policy suggestions in regards to preventing future terrorist attacks, strengthening domestic security, and intelligence gathering. The Federal security fund will be allocated depending on each state and each city’s risk index; the higher index will have a higher allocation. In addition, the government was urged to build a new system for the purpose of reliable communication between all security personnel, at all levels. The recommended provisions included constructing a new connection system, reinforcing railway, transportation and bus security, and creating a new electronic travel authorization system to strengthen security review of travelers from visa-free countries.⁵⁸

⁵⁸ Pan Yunzhao and Yang Qingchuan, “Bush Signed the Bill to Strengthen Anti-Terrorism Measures,” *Chinamil*, last modified August 4, 2007. http://www.chinamil.com.cn/site1/xwpdxw/2007-08/04/content_907969.htm.

B. OPERATIONS OF THE COUNTERTERRORISM DECISION-MAKING MECHANISM

The core of the U.S. crisis management mechanism is the President of the United States, the overall governance capacity as the basis, the National Security Council as the decision-making center, State Department, Defense Department, and Justice Department cooperate and responsible for nation's security.⁵⁹ Through legal means, a complete crisis response plan, an efficient central coordinating mechanism, and a crisis response network are all included in the national security system. How the House of Representatives and the Senate authorized the president, how the decision-making mechanism was formed, and how to coordinate between various departments are all clearly described. Thus, when the United States, with a national security system led by the president, encounters terrorist attacks, the crisis management operations start automatically. The most important operation institutions are the Department of Homeland Security, the National Security Council, and the temporary crisis decision-making special teams, which provide the President with the best strategies to make decisions on national security issues.

1. President's Commanding Authority

The U.S. President is the Commander in Chief, as well as the core of the U.S. which was authorized power by the Constitution. If the country is under threat, the president has to take all the measures to protect the nation's security.

Besides exercising the legal power of the president of the country, with respect to the legislative power of the Congress, the president also has power on the administrative level. Although the U.S. has a presidential system, under the constitutional norm, the executive, legislative, and judicial powers are balanced. As long as the president's act is based on administrative regulation, his decision-making power will not be challenged. This also ensures that the presidential system will operate smoothly. The best example of the system is that after President George W. Bush publicly declared the 9/11 series of

⁵⁹ Ibid., 155.

attacks as “acts of war,” it was immediately possible to seek Congress’ consent to allow the president to use all necessary force and means to curb the expansion of terrorist attacks and to fight back against terrorists.

2. Department of Homeland Security

Before the 9/11 incident occurred, the definition of national security was only limited to outside the U.S. Since the incident, the U.S. government and the people have completely changed the concept of the local defense.⁶⁰ The 9/11 incident not only provided an opportunity to accelerate reform and to break the status quo of homeland security, but also prompted the U.S. government to eliminate administrative territorialism drastically and establish a newly unified “homeland security” institutional structure. Six months after the incident, President Bush announced the establishment of the Office of Homeland Security as he explained his concept of homeland security: “The changing nature of the threats facing America requires a new government structure to protect against invisible enemies that can strike with a wide variety of weapons. Today no one single government agency has homeland security as its primary mission. In fact, responsibilities for homeland security are dispersed among more than 100 different government organizations.”⁶¹ Thus, in June 2002, the House of Representatives Committee on Government Reform passed a motion to establish the Department of Homeland Security, which represented the largest government reorganization plan since 1947, when the U.S. Department of Defense was established. This is a government reorganization plan that integrates the existing 22 federal government agencies, including 17 million personnel. Its annual budget is approximately \$40 billion. The department is mainly responsible for protecting the United States from terrorist threats, analyzing terrorist threats, protecting the borders, airports and critical infrastructure, and coordinating national emergency response for the future. In addition, the Department of Homeland Security coordinates the provision of local defense forces, and is committed to

⁶⁰ “Bush Dialogue with World Leader,” *United Daily News* (Taipei), September 14, 2001, sec. 2, 27–28.

⁶¹ George W. Bush, *The Department of Homeland Security* (Washington, DC: White House, 2002).

protecting the rights of American citizens, strengthening public services, and in the face of natural disasters, providing help and services. See Figure 4 for an overview of the organization of the Department of Homeland Security.

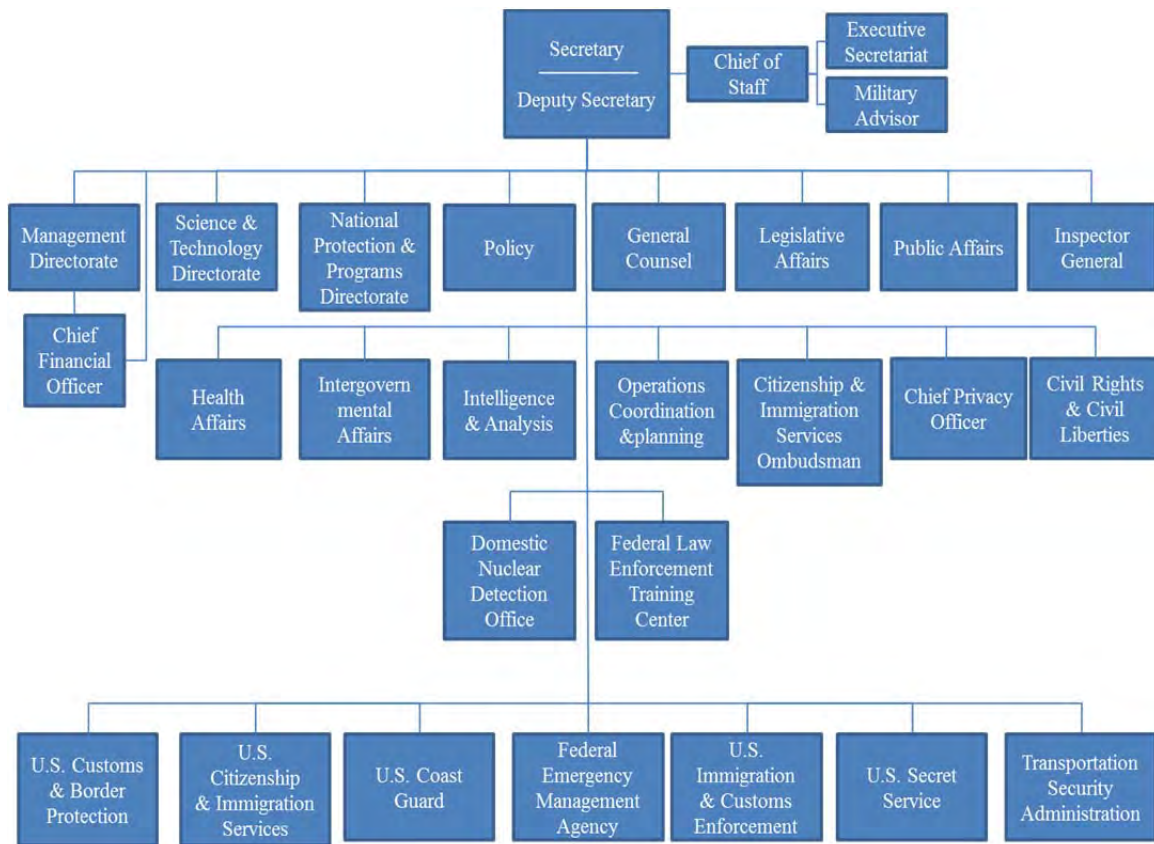


Figure 4. U.S. Department of Homeland Security.⁶²

However, in 2005, the disaster caused by Hurricane Katrina taught the United States that homeland security was threatened not only by man-made crises. Hence in October 2007, a “homeland security strategy” was announced, which emphasizes “natural disasters” as a threat to the homeland security environment.⁶³ After Hurricane Katrina, besides the original counterterrorism and other security framework, the homeland security was also focused on emergency and disaster management, which means that it

⁶² “Organizational Chart,” Homeland Security, last modified April 10, 2013. <http://www.dhs.gov/organizational-chart>.

⁶³ U.S. Homeland Security Council, “National Strategy for Homeland Security.” <http://www.dhs.gov>.

has gradually moved towards integration of government forces and civil parties as Homeland Security entities. In other words, the nature of homeland security has expanded.⁶⁴ Comparing the Homeland Security National Strategy of 2002 and 2007, we can see the change in strategies. See Table 3.

	Missions	Goals
2002 Homeland Security National Strategy	1. Intelligence and warning 2. Border and transportation security 3. Domestic counterterrorism 4. Protecting critical infrastructures and key assets 5. Defending against catastrophic threats 6. Emergency preparedness and response	1. Prevent terrorist attack in the U.S. territory 2. Reduce U.S. vulnerability in terms of terrorism 3. When under attack, reduce losses to a minimum and to recover from the attack
2007 Homeland Security National Strategy	1. Preventing terrorism and enhancing security 2. Securing and managing borders 3. Enforcing and administering our immigration laws 4. Safeguarding and securing cyberspace 5. Ensuring resilience to disasters	1. Prevent and break down terrorist attacks and actions 2. Protect the American people, critical infrastructure and key resources 3. Respond and recover from unexpected incidents

Table 3. Comparison of 2002 and 2007 Homeland Security National Strategy.⁶⁵

The Department of Homeland Security was established and their goal is to address a variety of homeland security-related issues, to ensure border and aviation security, and to strengthen the U.S. ability to combat terrorism.

3. National Security Council

The National Security Council (NSC) is based on National Security Directive-1 (NSPD-1) which set its structure. Its function is to act as the president's advisory board on national security policy. The president himself serves as the NSC chairman, and holds decision-making power, the chairman of the Joint Chiefs of Staff serves as military adviser, and the head of the CIA, who is responsible for the integration of 16 intelligence

⁶⁴ Department of Homeland Security, *Quadrennial Homeland Security Review Report* (Washington, DC: The White House, February 2010). http://www.dhs.gov/xlibrary/assets/qhsr_report.pdf, 37.

⁶⁵ Office of Homeland Security, "National Strategy for Homeland Security," 2002 and 2007.

agencies, advises on national security matters. The Director of Homeland Security, and the president's personal advisor and economic advisor are also invited to participate on the National Security Council as well. The Director of the Department of Justice and the Director of Office of Management and Budget provide timely advice. Other government agencies also attend the National Security Council as required by the president.⁶⁶ The Council can be distinguished by three levels based on their function: level one is the NSC Principals Committee (NSC/PC), chaired by the president, oversee foreign affairs, national defense, and critical national security-related information. Level two is the NSC Deputies Committee (NSC/DC), chaired by the National Security Adviser; it is primarily responsible for reviewing, coordinating, and supervising the implementation of national security policy. Level three is the NSC Policy Coordination Committees (NSC/PCCs), managed by the Deputy Assistant for National Security Affairs; it is responsible for reviewing and monitoring National Security Council inter-agency coordination and provides suggestions and strategies on crisis management.

According to U.S. national security law, the function of the National Security Council is "to give advice to the president on national security matters related to domestic, foreign affairs and the integration of military policy in order to strengthen the military departments and other relevant government ministries to collaborate more efficiently when involves in national security affairs. At the National Security Council's operational level, the core members of the Cabinet must hold Executive Committee and Secretary Committee meetings before the president holds a formal National Security Council meeting. The assistant secretaries will discuss the current crisis situation and any crisis, analyze the pros and cons of response strategies in advance, and then provide secretaries the different options.⁶⁷

The main task of the U.S. National Security Council is to coordinate and integrate national security affairs on the inter-departmental level. Due to various departments' structure organization, and different cultural backgrounds and responsibilities,

⁶⁶ The White House, "National Security Council." <http://www.whitehouse.gov/nsc/>.

⁶⁷ Su Jinjiang, *The Taiwan Strait Security under Globalization* (Taipei: Yang-Chih Book Co., 2003), 175–176.

government departments vary in how they achieve their goals and priorities. The National Security Council, as an internal coordination and integration platform, tries to reduce these discrepancies and lack of coordination. The methods that NSA uses include persuasion, negotiation, and force to increase the motivation to coordinate and integrate. Another way to reduce discrepancies between departments is to increase incentives so that the departments will understand the benefit of coordination and integration.⁶⁸

In sum, the reform of the National Security Council has the following characteristics: First, as the United States executive departments become increasingly specialized, the National Security Council can effectively integrate the opinions of the various departments, provide a communication platform to promote mutual consensus, and make it easier to achieve national security objectives.

Second, the president has the flexibility to adjust the organization and structure of the National Security Council. He does not need to convene the entire National Security Council in special circumstances, but may make decisions with only a few cabinet members. Although such a power can accelerate decision-making process, based on past experience, it might lead to adverse consequences due to improper presidential decision-making.

Third, under the National Security Council, there are the Office of the Director of National Intelligence (ODNI) and the Director of Central Intelligence (DCI). The National Security Council coordinates, integrates and manages the intelligence systems and activities. The DCI, as the National Security Council intelligence advisor, plays an important role in the implementation of national security policy.

C. RESEARCH AND ANALYSIS OF INTELLIGENCE AGENCIES

1. Director of National Intelligence (DNI)

Within the U.S. intelligence community fights over budgets and the president's attention have been a concern. The lack of intelligence-sharing and coordination problems have existed for a long time as well. Among all the agencies, the most powerful

⁶⁸ James G. March and Herbert A. Simon, *Organization* (New York: John Wiley and Sons, 1958), 129–131.

one, the Department of Defense, which owns a huge organization for collecting intelligence and advanced high-tech equipment, does not cooperate with the CIA.⁶⁹ Before 2004, the leaders of the U.S. intelligence system were the DCI, and the director of the CIA had authority over the DCI. When the intelligence system made serious mistakes on 9/11 events and the banned weapons investigation in Iraq, it resulted in great losses to U.S. national interests. Moreover, national security agencies, including the FBI, U.S. Customs and the air traffic control centers, and other units also showed insufficient capability of gathering intelligence, poor judgment, and a lack of decisiveness during these situations. These failed mechanisms revealed security weaknesses and a need for remediation and effective integration of intelligence. Therefore, in 2004, Congress passed the Intelligence Reform and Terrorism Prevention Act of 2004, and established The Director of National Intelligence (DNI), who heads an independent administrative agency, directly under the president's command and control. The DNI coordinates and guides the U.S. national intelligence program, administers 16 U.S. intelligence organization systems, and is the key advisor to the U.S. President, the U.S. National Security Council, and the U.S. Department of Homeland Security.⁷⁰ Usually DNI is responsible for collection and prioritizing of intelligence information after making the intelligence gathering points list (now known as "national intelligence gathering point framework"). After the National Security Council reviews it, the president will approve it every half of the year, then hands the list over to the CIA or other different components of the intelligence division to divide the collected intelligence. The DNI also supervises the Joint Intelligence Community Council Report.⁷¹ Under this mechanism, the core of the U.S. national security agencies (the National Security Council, the State Department, the Department of Defense, and CIA) intelligence sharing system has been built into the structure of the National Security Council. Meanwhile, the National Counterterrorism Center was built to coordinate all intelligence missions against terrorist activity. These represent the most

⁶⁹ Bruce D. Berkowitz and Allan E. Goodman, *Strategic Intelligence for American National Security* (Princeton: Princeton University Press, 1989), 43–44.

⁷⁰ Director of National Intelligence, "Office of the Director of National Intelligence." <http://www.dni.gov/index.php>.

⁷¹ National Security Act, 1947, Sec. 101 A.

significant changes to the intelligence organizations of the United States since the establishment of the CIA at the end of World War II. The 9/11 incident accelerated this reform.

2. FBI Task and Organizational Adjustments

FBI task and organizational adjustments can be divided into four areas, namely reforming the capability of the FBI, reshaping the FBI's two-stage adjustment, and solving the structural defects associated with the FBI. The restructuring not only improved coordination and integration of the Defense Department and the CIA at the intelligence operations level, but also strengthened the intelligence policy guidance functions of the National Security Council. Under this mechanism, the intelligence-sharing between the United States' core national security agencies (the National Security Council, Department of State, Department of Defense, CIA) has been built into the structure of the National Security Council system automatically.

3. Terrorist Threat Integration Center (TTIC)

The 9/11 incident let the Bush administration understand the intelligence units' lack of effective integration. In order to solve this problem, President Bush, in his 2003 State of the Union address, required the leaders of the CIA, FBI, the Justice Department, Homeland Security, and the Secretary of Defense to work together and establish the Terrorist Threat Integration Center (TTIC) to integrate and analyze all the domestic and foreign intelligence that relates to terrorism. The TTIC can further shape the most complete picture of possible terrorist threats. The center became operational on May 1,

2003, and it plays a supervisory role in national counterterrorism. It also maintains systems related to updating the terrorism database so that government officials at all levels can extract information when needed.⁷²

⁷² Yuwei Wang, *The National Intelligence Research Under New Security Threat* (Taipei: Prospect Quarterly, 2003), 128.

4. Terrorist Screening Center (TSC)

The TSC was established on September 16, 2003, as a centralized intelligence integration center. The way it functions is the intelligence units submit all data related to terrorists, domestic or international, at the TSDB, and then share that information with the FBI, the relevant countries, Department of Homeland Security, National Crime Information Center (NCIC), and the Department of State, etc. The main purpose of the TSC is to ensure the investigators, screening officers, and detectives can work together under a unified counterterrorism information mechanism and make them able to monitor or prevent suspects effectively.⁷³

Overall, the U.S. is actively reforming its intelligence integration mechanisms and intelligence gathering operations and processes, and re-establishing the intelligence system to exercise organizational changes. After the 9/11 incident, the national defense system, crisis management mechanism, or the intelligence system experienced substantial improvements and their functions were also enhanced considerably. However, there are still potential problems with information sharing. The U.S. government has no specific organization or computer database systems that can fully integrate intelligence, law enforcement, immigration control, public health, and homeland security-related information. That is mainly due to inconsistencies and incompatibility in the computer systems among government departments. Therefore, the absence of mechanisms for coordination and cooperation leads to incomplete and inaccurate knowledge of terrorist organizations and their activities. Besides the problem with computer information systems at the federal level, state and local governments use their own communication systems that are outdated, which makes communication difficult and ineffective.⁷⁴

D. CHAPTER CONCLUSION

It has been 12 years since the 9/11 terrorist attacks. The United States was shocked by its insufficient response when the terrorist attack happened on its own soil,

⁷³ Terrorist Screening Center, The White House.
<http://www.whitehouse.gov/news/releases/2003/09/20030916-8.html>.

⁷⁴ Thomas C. Bruneau, "Control of Intelligence Activities in the United States," NS3155-Intelligence and Democracy, Naval Postgraduate School, Class Notes, unpublished.

and thus the United States was prompted to review its counterterrorism legislation, command mechanism, and the loopholes between government agencies and intelligence units. Although Bin Laden was killed in 2011 in a U.S. Special Forces raid, the terrorist threat has not yet terminated. For example, this April, the Boston Marathon bombings killed three and 183 others were injured in this tragedy. This August, the United States received intelligence sources indicating that a California-born Islamic jihadist, Adam Gadahn, called on Al-Qaeda to attack the United States embassies in the Middle East, North Africa, and elsewhere using a variety of means and weapons to attack the United States Embassy officials, public transport systems, and tourist facilities.⁷⁵ In addition, the terrorist attacks still continue. The threat of terrorist attacks has not yet disappeared. Since the 9/11 incident, the U.S. made a massive adjustment on political, military, intelligence and counterterrorism policies, such as getting the support of the United Nations, building an international coalition against terrorism, initiating military action against terrorist organizations, and preventing proliferation of weapons of mass destruction.⁷⁶

The “Ministry of National Security” was established in order to consolidate eight federal “ministries” and 22 federal government agencies, but the CIA and FBI were not included. Therefore, the establishment of National Security Council was only to strengthen the transmission and analysis of intelligence domestically and internationally.⁷⁷ But no matter what, the establishment of the “Ministry of National Security” has its flexibility on organization, resources, authority, and personnel appointments. The various measures mentioned in this chapter may not yet show significant results in such a short period of time, but on the whole, the United States not

⁷⁵ “American Jihadist Calls for Al Qaeda Attacks on Western Embassies and Praises Murder of U.S. Ambassador,” *Mailonline*, last modified August 19, 2013, <http://www.dailymail.co.uk/news/article-2397000/American-jihadist-calls-Al-Qaeda-attacks-Western-embassies-praises-murder-U-S-ambassador.html#ixzz2e83SCqPi>.

⁷⁶ Yaru Ye, “The Study of American Government’s Counterterrorism Policy after 911” (master’s thesis, National Donghwa University, 2011), 98.

⁷⁷ Jinchu Zhu, “The Study of Police Policy on Counterterrorism and Security,” The 4th Terrorism and National Security Academy Seminar. <http://taiwannccf.org.tw/seminar/20021020/index.htm>.

only takes practical action to fight against terrorists, but also declares its determination on counterterrorism to the whole world.

IV. STUDY OF JAPANESE COUNTERTERRORISM MECHANISMS

Japan is a country located in the Pacific Rim, which is subject to many earthquakes and typhoons. Because rainfall and rivers are short and fast, floods are also frequent. Therefore, Japan has a strong sense of crisis prevention. Traditionally, the crisis management core is based on natural disasters. However, since the 1990s, a series of terrorist attacks have occurred in Japan and the United have made the Japanese aware of the insufficiency of their domestic counterterrorism laws and crisis management capability. The first event that heightened their awareness was the Matsumoto incident, which occurred at the end of June 1994, perpetrated by seven members of Aum Shinrikyo in Nagano Prefecture residential areas. Seven people were killed and 660 others were harmed by Sarin gas in the tragedy. This chemical weapons terrorist attack brought Japan's terrorist threat and counterterrorism measures to a new level. The second incident was the sarin gas attack on the Tokyo subway. The incident occurred in 1995 and was again the work of Aum Shinrikyo. The attacked locations were at Kasumigaseki, Chiyoda district, Tokyo, where the cabinet ministry offices are, and the metro station Nagata-cho close to the Parliament. A total of 12 people were killed, and more than 5,500 people were injured in the tragedy.⁷⁸ After this attack, the government established laws focusing on the manufacture of sarin chemicals, and on possessing and spreading deadly chemicals. The third incident was the Japanese embassy hostage crisis. The incident took place in the end of 1996; Peru leftist guerrillas captured the Japanese embassy. Although the Peruvian police raided and safely rescued all the hostages, the Japanese government still decided to further improve the ability of its counterterrorism forces, and in the following year, more than twenty billion yen were provided to establish training bases and related facilities.⁷⁹ The fourth incident was the 9/11 attack in the United States. After that attack, the Japanese government believed that Japan would become the next target of terrorists,

⁷⁸ "Sarin Gas Attack on the Tokyo Subway," *Wikipedia*.
http://en.wikipedia.org/wiki/Sarin_gas_attack_on_the_Tokyo_subway.

⁷⁹ Dongjie Cai, "The Development of Japan's Counterterrorism and Overseas Peacekeeping Policy," *Youth Daily News*, May 27, 2010, sec.7.

and there are three reasons for this assumption. First, Japan is an ally of the United States. Japan has formulated a Counterterrorism Countermeasures Act and the Top-Down Policy Process to Dispatch the SDF (Self-Defense Forces) to Iraq to support the U.S. war on terror. Second, there are many U.S. facilities in Japan. These facilities are likely to become targets of terrorist organizations. Third, Japan has been actively assisting countries in Southeast Asia with their ability to enhance counterterrorism, and would be regarded as a challenge to international terrorist organizations.⁸⁰ The statements issued by terrorist organizations have repeatedly listed the Japanese as a target. The statements published by Bin Laden in October 2002 indicated that the U.S. and its allies will be the objects of attack. When Japan decided to dispatch Self-Defense Forces to Iraq after October 18, 2003, Bin Laden said that he owned the right to retaliate in the appropriate place and time. Japan is listed as the target of attack a total of 10 times, along with England nine times and Spain.⁸¹ The Madrid train station and the London Underground were subsequently attacked. On the day of the attack in Madrid, terrorist organizations issued a statement that Japan would probably be the next target.⁸² As a result, Japan considered it necessary to strengthen its defenses to cope with terrorist attacks; therefore, Japan had the opportunity to strengthen its security mechanisms.

After reviewing its related mechanisms, the Japanese government discovered that some of the emergency response measures needed a legal basis, and the command structure also lacked efficiency. As a result, the counterterrorism mechanism legalizations became the urgent need.⁸³ The following section provides an overview of how the government reformed its counterterrorism mechanisms through regulations and cabinet systems.

⁸⁰ Xianshen Lin, "From the Perspective of Social Security to Study the Proper Measures of Anti-Terrorism Policy: Japanese Anti-Terrorism Policy as the Research Target," Police School and Security Management Seminar (Taiwanese Police Research Association, 2008), 289.

⁸¹ Public Security Intelligence Agency, *International Terrorism Handbook*.
http://www.moj.go.jp/psia/kouan_press_060425.html

⁸² Lin, "From the Perspective of Social Security to Study the Proper measures of Anti-Terrorism Policy," 289.

⁸³ Shuxian Liao, "Japan's Anti-Terrorism Mechanism and the Possible Japan-Taiwan Security Cooperation," *Taiwan Defense Affairs* 3, no.1 (2002), 31.

A. REGULATIONS AND REFORM

In the mid-1990s, Japan experienced a series of major natural disasters and terrorist attacks, which changed the emphasis from the national crisis management mechanism accommodating a variety of large-scale disasters to the national response mechanism for emergencies. The first incident was the 1995 Great Hanshin Earthquake, resulting in the loss of nearly 10 trillion yen. The crisis management system at the time was focusing on the security of the Cabinet; therefore, there was a lack of unified central command and crisis management decision-making, which caused the ministries to be unresponsive when the earthquake happened, and resulted in the failure of the overall crisis management capabilities. The government's indecisiveness in the emergency was strongly questioned and criticized by the news media and the people. Another factor was the Aum Shinrikyo sarin gas attacks in Japan between 1993 and 1995. After reviewing the sarin attacks, Japan discovered that the laws had no restriction on manufacturing, possessing, and distributing deadly chemical materials. In conclusion, the several incidents that occurred in 1990s provided an excellent opportunity for Japan to restructure its crisis management system and to amend laws. The counterterrorism mechanism is a part of crisis management prevention. There are five methods to improve the counterterrorism mechanism: 1) legislation or amendments; 2) strengthening the prime minister's powers in crisis management to ensure the authority of the central command system and functionality; 3) simplification of the central ministries and organizations; 4) reduction of administrative functions and increasing efficiency; and 5) the reform of the civil service system. These methods can enhance the government's response to crisis and any counterterrorism contingency.⁸⁴

1. Sarin Gas Attack

The first piece of legislation came in response to the Tokyo sarin incident. The Japanese Parliament passed a law for "the Prevention of Harm of People from Sarin" in April 1995, to prohibit the manufacture and possession of sarin and related items, and set

⁸⁴ Dexun Wang, "The Development and Characteristics of Japan's Crisis Management Mechanisms," *International Economic Review* 2 (2007).

penalties for spreading it. The enactment of this law against sarin closed Japan's legal loopholes in this area. In addition, in order to enhance the capability of dealing with the crisis, in April 1998, the Cabinet Crisis Management and the Cabinet Security of Crisis Management Offices were established among the Cabinet Secretariat (now changed to Assistant Deputy Chief Cabinet Secretary). The office simulates the situation after the terrorist attacks of chemical weapons and its corresponding reaction measures. The office has proposed to address the "toxic event handling drills report" and "deal with nuclear, biological and other weapons of mass destruction threat of terrorist attacks" in a standard operating procedures manual. Secondly, in April 2000, the National Police Agency Guard Bureau established the new "major terrorist attack countermeasures office" responsible for handling "international relations that have a major impact, obviously endanger national vital interests, or significantly damage most people's lives, body or property."⁸⁵

2. Great Hanshin Earthquake

In order to improve the imperfect government crisis management system's handling of the Great Hanshin Earthquake for future emergencies, the Japanese government conducted a comprehensive revision in July 1995 under the "Disaster Basic Countermeasures" in Article 34, "Disaster basic plan's formulation," paragraph 1, in accordance with the regulatory procedure "Disaster Basic Plan." This law originated in 1961, when the central to local government disaster prevention system was established. However, the Central Disaster Prevention Council was ineffective. In 2002, the national sectorial disaster plan, the Disaster Prevention Plan, and local government disaster plan, "Regional Disaster Plan, were finally completed. In addition to the revision and improvement of the disaster plans, the Japanese laws pertaining to disaster prevention have also been improved. Japan's basic disaster-related law, Disaster Basic Countermeasures, has been substantially modified, forming a Cabinet Office as the core, and an in-depth disaster prevention countermeasures planning system from the central to local government level, which changes the bureaucratic system. The emphasis of this

⁸⁵ Naofumi Miyasaka, *Japan's Anti-Terrorism* (Tokyo: Eslite, 2004), 121–122, quoted in Lin, *International Terrorism and Countermeasures: From Japan's Perspective*, October 30, 2007, 11–12.

bottom-up approach not only helps various departments' coordination, but also affects the operation of the government response mechanisms and performance when a crisis happens.

In regards to command responsibilities, the New Disaster Basic Countermeasures increase the Prime Minister's power in crisis management, which enables the Prime Minister to play an important role in a vertical centralization advantage. Before amending the law, the Japanese central government's administrative affairs were distributed to different ministries. The Prime Minister had no power to direct the administrative affairs between ministries. Due to the lack of power of the Prime Minister, problems occurred when it came to responsibilities. The lack of coordination among these ministries led to inefficient connections. Under the amended law, the Prime Minister, who is responsible for leading the Cabinet Security Council, can issue direct orders to those responsible for crisis management and administrative authorities of the police, fire, and defense during major crises. In addition, in the event of large-scale disasters or riots, the Prime Minister has the power to issue temporary emergency status and could command and control police units.⁸⁶

3. Reform of Administrative System

Other legislation was enacted with the October 1996 election, based on ex-Prime Minister Ryutaro Hashimoto's six core elements of political reform. Hashimoto believed that a "centralized nation" type of vertical administration, which has a central government led by a bureaucracy and controlling the budget, was not an efficient government. Therefore, he decided to reform the government. First, on June 12, 1998, the Reform of the Central Ministries and Agencies Basic Law, was passed, while the related laws were amended with specific measures. This reform started officially on January 6, 2001, and was also called Hashimoto reform.⁸⁷ Then in 1998, Article 4 of the revised Cabinet Law granted the prime minister the right to propose his/her own opinion when it

⁸⁶ Chunyu Miaoling, "The Evolution of Japanese Government Crisis Management," *Contemporary Asia-Pacific Studies* 7 (2004).

⁸⁷ Mingshag Wu, "The Study of the Nucleus of the Japanese Administration Reform: Consolidation of Prime Minister's Leadership," *Issues and Studies* 48, no. 2 (2009), 36–37.

comes to a major policy or other major motions. That same year, the Cabinet Crisis Management Office was set up, with the same power as the Office of Vice Minister; It is coordinated and appointed by the Prime Minister and possesses the authority to coordinate various departments. In 1999, Article 15, paragraph 2 amendment, the Cabinet Security Office was expanded to the Cabinet Security and Crisis Management Office, to assist handling the Cabinet-related affairs other than the National Defense. These two amendments not only strengthened the Prime Minister's powers, enabled centralized management during a crisis, and ensured the administrative structures functioning, but also established more complete administrative agencies to assist the Prime Minister. The new administrative and government agencies started operation in January 2001.

4. Counterterrorism Legislation after 9/11

After the 9/11 incident on U.S. soil in 2001, Japan enacted several large-scale regulatory amendments. The laws amended were related to counterterrorism and caused controversy among the international community; the first such law is the Counterterrorism Special Measures Law which was passed on October 29, 2002, and authorized the Japan Self-Defense Forces to support not only the U.S. military in supply, transportation, medical, and telecommunication, but also in non-combat areas, including Japan's territorial waters, the high seas, and foreign territories on which other nations agree. The second amendment was the Coast Guard Act Amendment which authorizes firing on a suspect vessel that poses a threat in Japanese territorial waters. And the third amendment, Japan's Self-Defense Forces Amendment, allows the government to authorize the use of force when necessary and to be on guard when the Self-Defense Forces and U.S. military stationed in Japan face terrorist threats. Yet, except for the second and the third amendments that are directly related to the prevention of terrorist activities, the first amendment allowed the Self-Defense Forces to dispatch their troops to the Indian Ocean and Iraq legally, providing logistical support for the U.S. military. Back in 2001 when the United States attacked Afghanistan, the Japanese government as an ally of the U.S., in order to prevent the terrorist attacks on their territory, held an inter-provincial meeting on October 16 to discuss various counterterrorism mechanisms, and proposed six focus points on promoting counterterrorism matters. These focal points have

become the blueprint for future development of counterterrorism measures, including the entry and exit territory and intelligence exchange, terrorists and funding surveillance, vital facilities security maintenance, nuclear, biological, and network security, prevention of hijacking and overseas Japanese information support.⁸⁸ After the U.S. invasion of Iraq in 2004, the Japanese have received warnings of terrorist attack. In response to the warnings, the Japanese National Police Agency in August 2004 proposed a Counterterrorism Measures Promotion Outline to enhance its preventive measures and emergency response capabilities. In December, the agency also announced a plan of action to “prevent terrorist attacks in the first place” which included a total of 16 measures.⁸⁹ The Japanese economic interest is globally distributed, and any large-scale terrorist attacks are likely to harm their interests. Therefore, protecting its foreign interests has become an important goal of the Japanese counterterrorism measures.

Furthermore, the Self-Defense Forces amendment passed on 6 June 2003, responding to Armed Attack Situations Security Act and the amendment to the Security Conference, gives the Prime Minister special rights to bypass the Security Conference and Cabinet when facing emergency situations, to call for the Self-Defense Forces and to use local and private resources.⁹⁰ In the same year on September 18, several cases of anthrax incidents occurred in the United State, five people were killed and 17 people were infected. And it also caused panic in international society. Although the Japanese have experience in dealing with sarin, they still deal with it cautiously. The Prime Minister in November the 8th called for a Cabinet meeting to develop measures against terrorist chemical weapons attacks. In critical situations, the Prime Minister has the right to activate the emergency disaster response system which is beyond the past step by step rigid administrative system. The Cabinet agencies can be more flexible and accelerate administrative efficiency when crisis occurs.⁹¹

⁸⁸ “The Emphasis Promotion Matters in Domestic Counterterrorism,” Prime Minister of Japan and His Cabinet, last modified October 12, 2013. <http://www.kantei.go.jp/cn/index.html>.

⁸⁹ “Action Plan for Prevention of Terrorist Attack,” Prime Minister of Japan and His Cabinet. <http://www.kantei.go.jp/jp/singi/sosikihanzai/kettei/041210kettei.pdf>.

⁹⁰ Dexun Wang, “The Development and Characteristic of Japan’s Crisis Management Mechanisms.”

⁹¹ Chunyu Mialoing, “The Evolution of Japanese Government Crisis Management.”

B. OPERATIONS OF THE COUNTERTERRORISM DECISION-MAKING MECHANISM

1. Prime Minister's Command Responsibilities

Japan operates with the parliamentary cabinet system which has legislative, judicial, and executive power. According to the Japanese Constitution, the Cabinet is the highest administrative institution, and is in charge by authority of the Parliament. The head of the government of Japan is formally known as the Prime Minister, which is Japan's highest leader. On the October 20, 1996, at the House of Representatives election campaign, political parties have put forward the policy of administrative reform. An Administrative Reform Conference was held in that period of time and its first meeting was held in the same month. Within a year after the conference, following the instructions of the Prime Minister Hashimoto, recommendations were proposed. A total of 42 meetings were held until December 3, 1997, and then a closing report was presented. This report described the purpose of administrative reform—"radical reform of large, complex, and rigid, institutions and the preservation of a free and just society is a must. In order to achieve this, we must construct and implement proper and effective national systems, as well as achieve simplicity, efficiency, and transparency in government administrations."⁹² There are four recommended measures: 1) the Cabinet feature enhancement, 2) the reform of the central ministries and agencies, 3) the increased efficiency of administrative functions, and 4) civil service reform.⁹³ This bill was formally launched on January 6, 2001 and it strengthened disaster management administrative functions by reforming the Cabinet Secretariat's overall structure. As for streamlining of the central government organizations, it was adjusted from 22 departments to 12, which is the smallest number of government organizations among developing countries. Other than that, policy and enforcement authorities were separated in order to streamline government organizations, to release central government powers, and to strengthen decentralization of local government. In addition to the purpose of

⁹² Mingshag Wu, "The Study of the Nucleus of the Japanese Administration Reform: Consolidation of Prime Minister's Leadership," 36.

⁹³ Administrative Reforms Commission, Japanese Government in the 21st century: The Record of Japanese Administration Reform (Tokyo : Office of Management and Research Center, 1998) , 124-131

central administrative reform, ministries organizational adjustments, and administrative function reduction and efficiency, the most important reform was to strengthen the coordination of the Cabinet decision and crisis management capabilities. The Prime Minister's Office was renamed after the reform as the Cabinet Office; the Cabinet is still dominated by the Cabinet Secretariat, and is responsible for coordination mechanisms between departments, with a particular emphasis on strengthening the Prime Minister's political dominance. Before amending the law, there were no clear regulations regarding the Prime Minister's proposal rights. According to the old law under Article 4 of the Cabinet, the Prime Minister's powers must be exercised "based on the principle of the Cabinet meeting," and the Prime Minister's exercise of authority must be based on resolutions of the Cabinet meeting and followed the "prior censorship" of past practice. The Prime Minister's proposal must be restricted to the ruling political party's forces, which limits the Cabinet's function to only admitting the decisions that are already made between parties afterwards. Before amending the law, the Cabinet meeting's function was merely a "rubber stamp." The Prime Minister's right of proposal was still subject to substantial restrictions.⁹⁴ However, the new system clearly gives the Prime Minister the right to make proposals which authorize him space on national policy decision making. This command mechanism is very helpful for the implementation of counterterrorism, because the Prime Minister is the direct leader of the Cabinet Security Meeting, and under the security meeting is the counter-terrorism headquarters which handles the crisis management team when a terrorist attack happens. This Cabinet administrative reform that clarifies the Prime Minister's right of proposal makes it possible to avoid "prior censorship" constraints and to take the initiative in policy making.

⁹⁴ Michio Muramatsu, Ito Mitsutoshi, and Tsujinaka Yutaka, *The Politics of Japan*, Vol. 2 (Tokyo: Yuhikaku, 2001), 182, quoted in Mingshag Wu, "The Study of the Nucleus of the Japanese Administration Reform: Consolidation of Prime Minister's Leadership," *Issues and Studies* 48, no. 2 (2009), 42.

2. Cabinet Decision-Making Mechanism

a. *Structure of Organization*

The Cabinet Office is the main authority to handle crisis management, and the Prime Minister is the center of that office. The Cabinet Secretariat is the main unit that directly supports the Prime Minister. The nature of it is the same as that of Executive Yuan of Taiwan. He or she is the Chief Cabinet Secretary responsible for coordinating all matters and implementing the Prime Minister's right of proposal. The amended law was also to review the Cabinet system, since it is the institution that supports the Prime Minister. Before amending the law, although the Cabinet Secretariat was the head of the system, the number of people was no more than 30. However, a limited number of Cabinet personnel were responsible for Cabinet Office on Domestic Affairs, Cabinet Office on Foreign Affairs, Cabinet Secretariat Security Protection and Crisis Management Office, and the Cabinet Intelligence and Research Office. When it comes to dealing with important policy, the Cabinet Decision-Making Mechanism only relies on the Prime Minister, Chief Cabinet Secretary, the Deputy Executive Secretary of the Prime Minister, and five officers. Therefore, Japan's government must still rely on the assistance of the bureaucracy, and hence, the Cabinet Secretariat loses its dominance.⁹⁵ Therefore, under the new system, the number of Cabinet Secretariat personnel will be expanded, more talented civilians will be recruited, and the Prime Minister is provided full assistance. The Cabinet of Japan now consists of three Deputies of the Chief Cabinet Secretary, of which one is responsible for security and a variety of crisis management activities, including security conference-related services, security systems, and policy research, large-scale natural disasters, major accidents response, and civilian protection (Cabinet Secretariat security).⁹⁶ The Director of Cabinet Crisis Management is in charge of crisis management among government affairs. The agency is responsible for the coordination of and acts as liaison between the administrative units. In addition, after the administrative reform, according to the Cabinet Law Article 12, paragraph 2 "Cabinet

⁹⁵ Ibid.,

⁹⁶ Introduction to the Organization of Cabinet Secretary, Cabinet Secretariat. <http://www.cas.go.jp/>.

affairs,” the agency was also given the power to “plan and draft” which enables it to take the initiative in planning and drafting new policy.⁹⁷ See Figure 5.

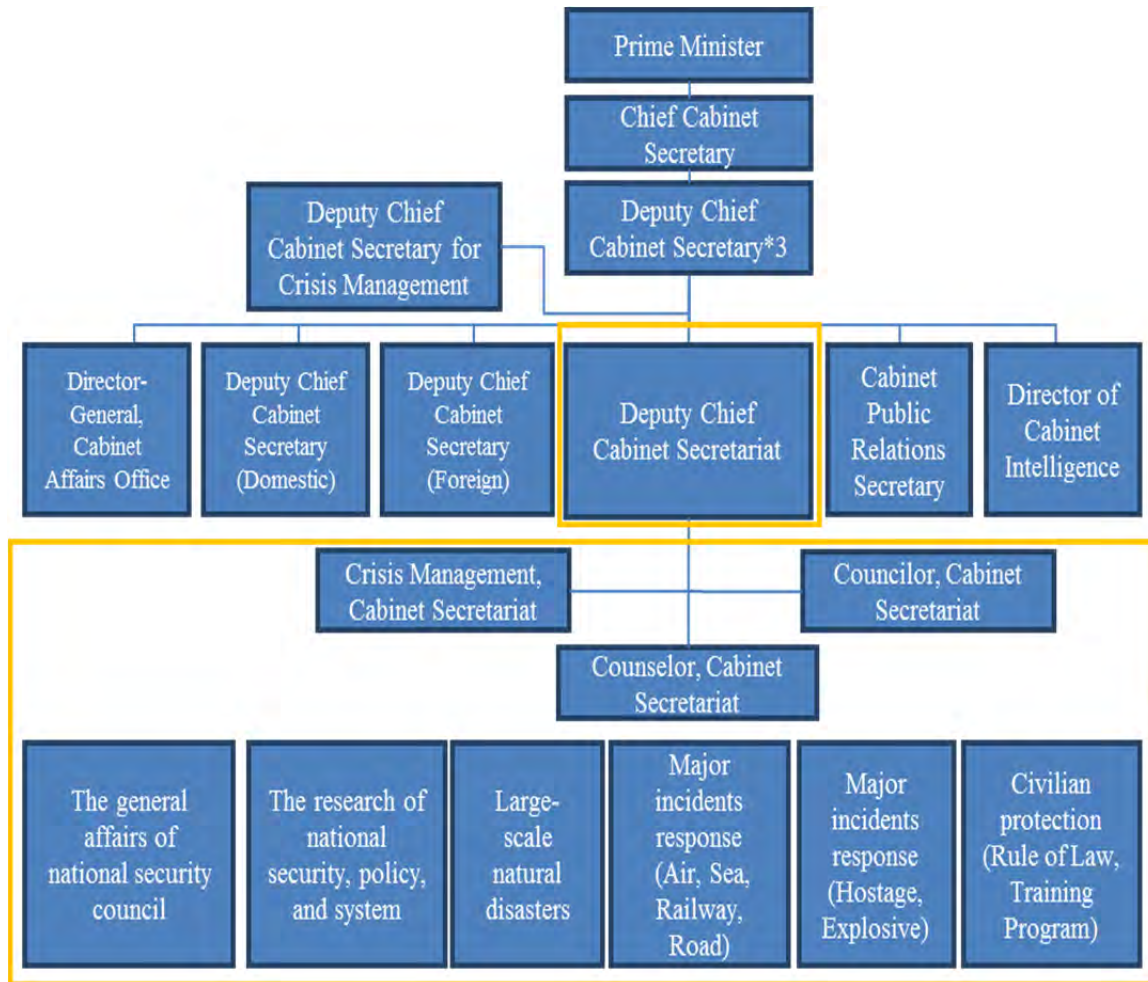


Figure 5. Cabinet Secretariat Security Protection, Crisis Management.⁹⁸

Furthermore, due to the experience of the Great Hanshin Earthquake, the Cabinet Office is in succession to establish many of the institutions that will assist the Cabinet in handling all kinds of crises. For example, in February 1995, the Urgent Convening Group was established by the Secretary of each office. In May 1996, the Cabinet Intelligence

⁹⁷ Eda Kenji, *Who Lost the Ability to Reform* (Tokyo: Yom Yom, 1999), 51, quoted in Mingshag Wu, “The Study of the Nucleus of the Japanese Administration Reform: Consolidation of Prime Minister’s Leadership,” *Issues and Studies* 48, no. 2 (2009), 43–44.

⁹⁸ Cabinet Secretariat, “Cabinet Secretariat Chart.” <http://www.cas.go.jp/>.

Collection Center was open around the clock to gather intelligence automatically when an emergency situation occurred. In April 1998, the position of Director of the Cabinet Crisis Management was created. In April 2001, the Cabinet Satellite Intelligence Center was established. Some other institutions were also founded at the same time, such as the Special Committee in Response to Emergency, International Organization of Crime and International Terrorism Countermeasures Promotion Headquarters, and Cabinet Intelligence and Security Center. In times of crisis, the head of decision-making ministries, such as the Security Council and the Central Disaster Prevention Council, develop emergency crisis response protocols, which are implemented by the Ministry of Land, Infrastructure and Transport, the Meteorological Agency, the Ministry of Defense, and the Fire and Disaster Management Agency. In addition, the Cabinet Secretariat in the crisis management regime has another function, which is to obtain information as soon as possible, to convey it to the relevant departments, and to implement the necessary measures to eliminate public fear and anxiety. In short, the Cabinet Secretariat is responsible for crisis management in the event of a major crisis situation, and the Cabinet can make the first judgment and quickly take the necessary measures.

b. Emergency Response Procedures

Japan's crisis management unit can be distinguished in three levels. The first level is the Cabinet Office, which is responsible for policy planning, the second level is the Cabinet Secretariat, which is responsible for directing the implementation of crisis management response units, and the third level is various government agencies, which are responsible for executing the tasks. The characteristics of Japan's crisis management units are a quick response mechanism, a clear division of tasks, fast implementation of actions, reasonable setup of the departments, and clear job distribution. When a major accident or incident occurs, the Cabinet Intelligence Collecting Center immediately collects and confirms intelligence, and reports to the Prime Minister, Chief Cabinet Secretary, Deputy Chief, and Director of Crisis Management. After the Director of Crisis Management receives notification, related personnel then immediately enter the Crisis Management Center (located in the basement of the presidential residence) to convene the a meeting with relevant ministries and agencies. If it is determined that there is an

armed attack, then the special committee and security committee will be convened to deal with the situation. After that, depending on the scope and extent of damage, “the relevant ministries and agencies, Cabinet members’ meeting, Security Council, interim Cabinet meeting” or the “Government Response Headquarters” might be set up to address different situations.⁹⁹ See Figure 6.

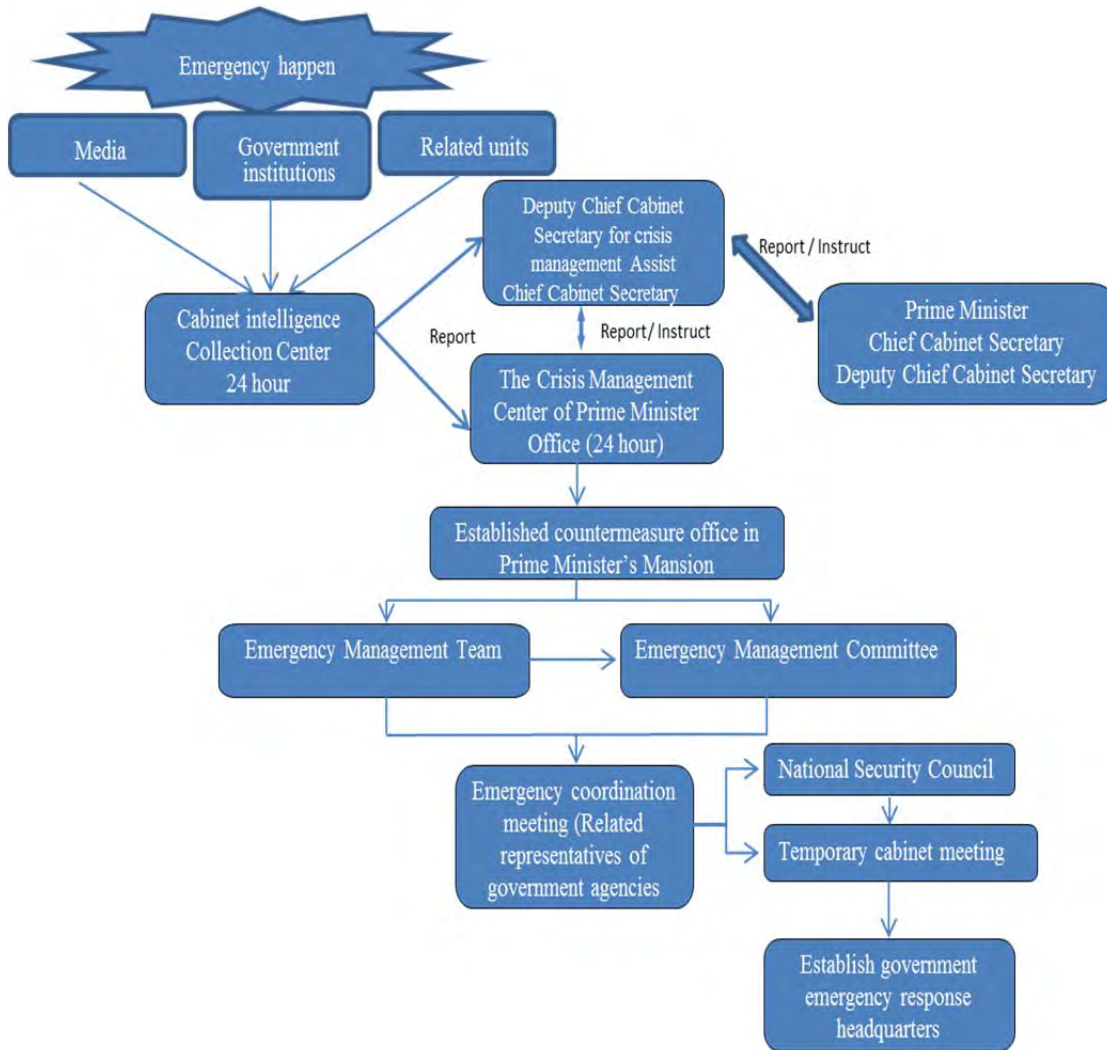


Figure 6. Japan’s Crisis Management Mechanisms Procedure.¹⁰⁰

⁹⁹ Dexun Wang, “The Development and Characteristics of Japan’s Crisis Management Mechanisms.”

¹⁰⁰ Ibid.,

C. RESEARCH AND ANALYSIS OF INTELLIGENCE AGENCY

1. Current Status of Intelligence Agencies Implementation

Japan's existing intelligence organizations are the Cabinet Intelligence and Investigation Office, Ministry of Foreign Affairs, Defense Intelligence Headquarters, Public Security Intelligence Agency, and National Police Agency. The Cabinet Intelligence and Investigation Office is Japan's top intelligence agency and is placed under the Cabinet Secretariat, and the Cabinet Intelligence Officers are responsible for coordination activities. The office's former name was the Cabinet Prime Minister Investigation Office. It was formally established on August 30, 1952, directly under the leadership of Chief Cabinet Secretary. After repeated restructuring in 1968, it was officially named the Cabinet Intelligence and Investigation Office. Its main task is to collect and integrate domestic and international political, economic, cultural and security intelligence. For example, the Defense Agency Intelligence System, the police intelligence system, and the Foreign Ministry intelligence systems collect intelligence and send the information to the Cabinet Intelligence and Investigation Office. After organizing and analyzing the gathered intelligence, office staff creates a report to present to the Cabinet Secretary. The Cabinet Chief provides intelligence to the Prime Minister weekly. But when there is a significant intelligence, the Cabinet intelligence officer can always directly report to the Prime Minister. On the whole, its function is similar to the CIA; however, compared to the nearly 18,000 employees in CIA, the Cabinet Intelligence and Investigation Office has only 170 to 175 employees. Among those staff, 100 are borrowed from other agencies and ministries. The members are mainly from the Japanese National Police Agency.¹⁰¹ The center is intended to coordinate and gather intelligence from different intelligence agencies, but the lack of manpower in the Cabinet Intelligence and Investigation Office hinders it from providing intelligence to the Prime Minister.

Under the Cabinet Intelligence and Investigation Office, there are six units: the General Affairs Department, Domestic Agency, International Agency, Ministry of Economy, the Cabinet Center for Collective Intelligence, and the Cabinet Satellite

¹⁰¹ Ken Kotani, Recent Discussions on Japanese Intelligence Reform: Current Japanese Intelligence Reform (RUSI Newsbrief, July 2009), 2.

Intelligence Center. The Cabinet Center for Collective Intelligence and the Cabinet Satellite Intelligence Center are responsible for collecting and analyzing information related to the Cabinet Policy. In addition, there are non-governmental organizations and groups, such as foreign organizations, the media, civil society, firms, and research institutions.¹⁰² The reason why the Cabinet Intelligence Collective Center was established was that in the 1995 Great Hanshin Earthquake, information between various departments could not be shared. Therefore, the government decided to set up the center under the Cabinet Intelligence and Investigation Office, hoping to integrate the various intelligence agencies. In addition to the five members of the Cabinet Intelligence and Investigation Center, there are four personnel from each of the following agencies: Police Department, Defense Department, Fire Department, Public Security Department, and Maritime Security Department. The total number of personnel who work in the center is 25, and they work five shifts to rotate for 24 hours. The center consists of a general office, data office, journalism office, equipment office, and intelligence office. The intelligence office is the main force of the center. The establishment of the Cabinet Intelligence Collective Center greatly strengthened the Japanese government's ability to respond to emergencies.¹⁰³ The intelligence systems, such as the Japan Defense Agency Information System, Police Intelligence System, and Ministry of Foreign Affairs Intelligence System, compile the information obtained for the Cabinet Intelligence and Investigation Office, and then the office integrates all the intelligence for the Cabinet as a basis for decision. See Figure 7.

¹⁰² "Japanese Intelligence System," *Rofaye*, Last modified October 5, 2008, http://www.360doc.com/content/08/1005/20/76608_1714944.shtml.

¹⁰³ Jinhu Gao, "Vigilance of the Intelligence Work of Japan's Central Intelligence Agency in Senkaku Islands," *Dongfangwhgc*, last modified April 24, 2013, <http://dongfangwhgc.blog.sohu.com/262027882.html>.

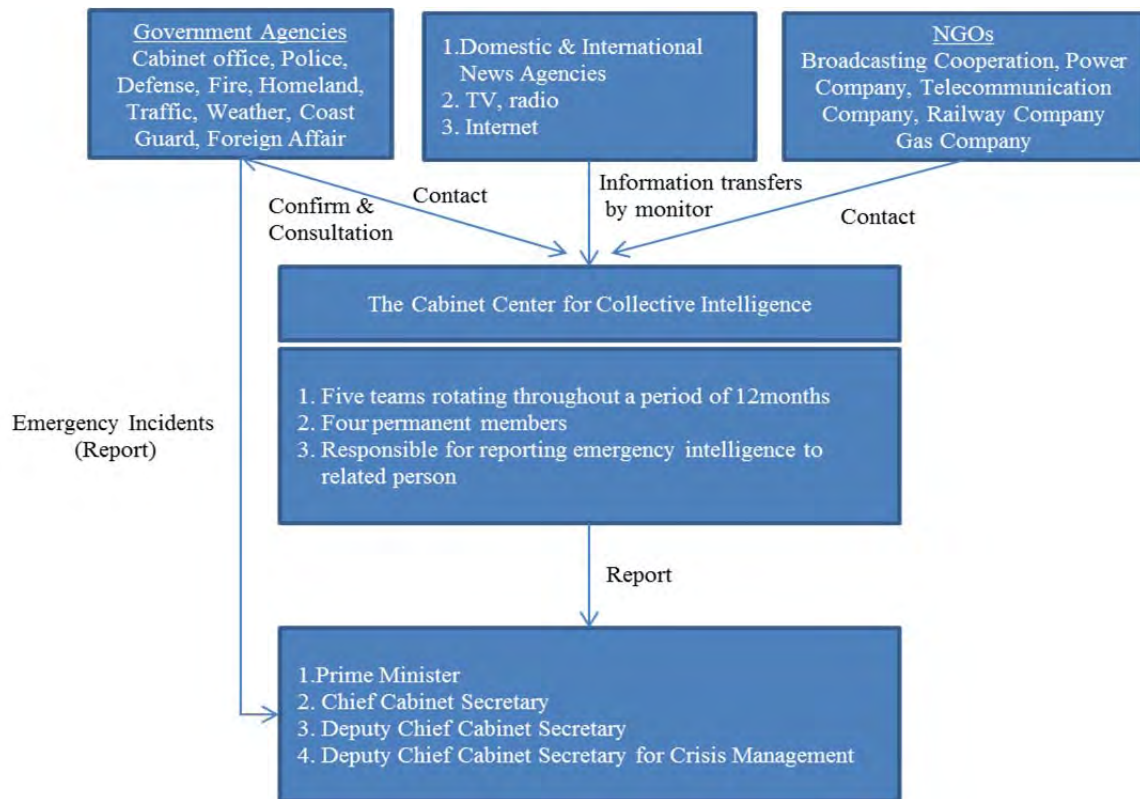


Figure 7. Emergencies Intelligence Report Process.¹⁰⁴

Another point worth mentioning is the private intelligence agency, which is an intelligence network, composed of non-state actors, such as foreign trade companies, the news media, newspapers, television networks, general trading companies, and even the world's political and economic surveys. These private agencies focus mainly on Foreign Intelligence Related Affairs collection and analysis, with particular emphasis on the economic level. Due to the limited budget and manpower of the office, Japan takes an intelligence outsourcing approach which is unique. Many of these people are retired intelligence personnel, with a considerable degree of intelligence professionals. A positive aspect to this approach is that if there is some inaccurate intelligence, the government can put the blame on to these outside sources, and reduce the damage to its integrity. However, a negative aspect is that the non-governmental institutions do not have the power of the government agencies and hence encounter more restrictions.

¹⁰⁴ DexunWang, "The Development and Characteristics of Japan's Crisis Management Mechanisms."

Furthermore, it is more difficult for the government to govern these institutions or personnel and to prevent them from leaking important intelligence.¹⁰⁵

Finally, the Satellite Intelligence Center integrates the high technology. It is located at the crisis management center in the basement of the Prime Minister's official residence. The center is equipped with advanced electronic communications, broadcasting and surveillance equipment, with satellite, mobile, and fixed communications equipment. Whether it is from the vertical linkages between the Cabinet and various departments, or the horizontal coordination and resource sharing between units, it has formed a dense network. In April 27 of this year, Satellite Intelligence Center released to the public that it has completed a global spy satellite network, composed of two optical satellites and two radar satellites, which can monitor anywhere on earth for an entire day. It is an increase of Japan's intelligence-gathering capabilities.¹⁰⁶

2. Reform of Intelligence Institution

During the Cold War, Japan's main source of intelligence was from the United States. After the Cold War, as a result of the changing situation in the world such as the 1998 North Korean test of the Taepodong 1 missile over Japanese airspace, the Tokyo subway sarin incident, and the 9/11 terrorist attacks against the United States, the Japanese government was determined to take on the responsibility of collecting intelligence. In addition to investing in reconnaissance satellites, the Japanese government established or reformed intelligence agencies. In September 2005, the International Department proposed the first Machimura Report, and planned and set up an intelligence agency under the department. In the following year, the Liberal Democratic Party, in the second Machimura Report, called for a thorough reform of the central intelligence mechanism to increase the Prime Minister's authority over intelligence in three ways: 1) to establish the Intelligence Committee by the members of the Cabinet, 2) to enhance the status of the Cabinet intelligence officer, and 3) to

¹⁰⁵ "The Judgment of Japan's CIA: Cabinet Intelligence and Investigation Office," *Sina Military News*, last modified April 19, 2005, <http://www.defence.org.cn/article-5-12690.html>.

¹⁰⁶ "Japan's Four Spy Satellites Surrounding around the Earth for Monitoring the Globe," *Xinhuanet*, last modified June 18, 2007, <http://www.sina.com.cn>.

establish intelligence assessment staff to assist the Joint Intelligence Committee. Also in February 2008, the Cabinet Office also proposed four intelligence reforms. The first is to establish an equal relationship between the Office of the Prime Minister and intelligence agencies. The second reform is to enhance intelligence gathering capability, and the third is to enhance the intelligence sharing between various departments and to increase the Office of the Prime Minister's control of the flow of information. Finally, the fourth proposal called for the overall reform of the security system. The purpose is to establish a Japanese Cabinet Central Intelligence mechanism that is similar to the one in the UK, but would still retain the Cabinet Intelligence and Investigation Office.¹⁰⁷ During this period of time, the government, the military intelligence agencies, and civil intelligence organizations went through continuous reform and development, and gradually formed the necessary vertical and horizontal linkages and coordination. Currently, the Japanese government, the military, and civil intelligence organizations have their own individual intelligence system. These three intelligence systems connect with each other, rely on each other, and form a trinity of intelligence organizations.

According to the Japanese scholar Ken Kotani, Japan's intelligence agencies are smaller, but they face several potential problems. First, they lack a unified central intelligence coordinating agency. Besides the current intelligence investigation office, a Joint Intelligence Committee was established in 1986, which is likely to cause problems between agencies when sharing intelligence. Second, the Japanese National Police Agency is currently the most influential unit in the intelligence department, and the recently reformed intelligence Cabinet offers no benefit for the National Police Agency. They are very protective of their own administrative territories. Third, the intelligence agencies' status is low and the Japanese do not trust the results of the intelligence analysis. Furthermore, they do not think that they need it to assist in decision-making. Fourth, Japan lacks an efficient intelligence security system. Government agencies and intelligence units assign different definitions for confidential, and there is no perfect security mechanism. Fifth, politicians or decision makers would rather reach a consensus

¹⁰⁷ Ken Kotani, "Recent Discussions on Japanese Intelligence Reform," 12-13.

between the political parties, rather than believe the result of intelligence, which also causes resentment among people in the intelligence agencies. This also indirectly affects the decisions of politicians.¹⁰⁸

The latest intelligence reform was on June 7, 2013. The Japanese Cabinet meeting decided in favor of the establishment of the National Security Council (NSC). Meanwhile, according to Japanese media, the Cabinet Office will set up a new sector specifically for collecting personal information under the Cabinet Intelligence and Investigation Office, which will be a great improvement for the Japanese intelligence gathering capability. According to a June 15 Hong Kong Wenhui Network reprint of the *International Herald Tribune*, a Chinese National Defense University military expert, Li DaGuang, published an article mentioning that the Japanese National Security Council is expected to set up intelligence liaison officers in main ministries, and directly provide intelligence to the Prime Minister on a daily basis. This is a breakthrough for Japan's past administrative system and decision-making mechanisms. Japanese Prime Minister Shinzo Abe hoped that the nine Cabinet members of the Security Council can be reformed to the National Security Council. He recommended the establishment of a fixed mechanism whereby the Prime Minister, Foreign Minister, Defense Minister, and Chief Cabinet can meet regularly to deal with diplomatic and security challenges, and to integrate opinions. His expectation is to unify leadership, to strengthen intelligence efficiency, and to improve the speed and efficiency of the decision-making mechanism.¹⁰⁹ Also, according to Japan's Asahi Shimbun reports on August 30, 2013, due to the establishment of the National Security Council, the intelligence management system reform was also discussed. It is expected that the Cabinet Intelligence Investigation Office will be changed to Cabinet Intelligence Council, and through the cooperation of the departments, will improve the capabilities of intelligence collection, analysis, and response to emergencies. Japan is trying to create a National Security Council similar to the United States' NSC. The Abe administration plans to pass a related bill in the Fall interim

¹⁰⁸ Ibid., 2.

¹⁰⁹ Daguang Li, "Japan is building military, Political, and Commercial Intelligence Groups," *International Herald Leader*, June 13, 2013, <http://ihl.cankaoxiaoxi.com/2013/0613/223704.shtml>.

parliament meeting and the Cabinet Intelligence Council is going to be formally established in January next year. The former Cabinet Intelligence Investigation Office is to assist the Cabinet Crisis Management agency, while providing assistance to the Deputy Chief Cabinet Secretary in order for him to assist the Prime Minister. After the setup of the National Security Bureau, the Cabinet Intelligence Office staff was increased from one to three people, who are responsible for domestic, foreign, and defense affairs, as well as collecting intelligence from the Japanese National Police Agency, Ministry of Foreign Affairs, Ministry of Defense, and other intelligence agencies, and reporting intelligence analysis to the Prime Minister. One of the three offices will be appointed as the head of the Cabinet Intelligence agency, equivalent to the head of the new National Security Council. With such a unified intelligence system, people cannot help but question the lack of oversight for the intelligence unit which may cause the dominance of the Cabinet Intelligence Agency.¹¹⁰ See Figure 8.

¹¹⁰ “Japan is Going to Establish Cabinet Intelligence Agency by Improving Intelligence Collection Capability,” *People*, August 30, 2013, <http://world.people.com.cn/n/2013/0830/c157278-22751962.html>.

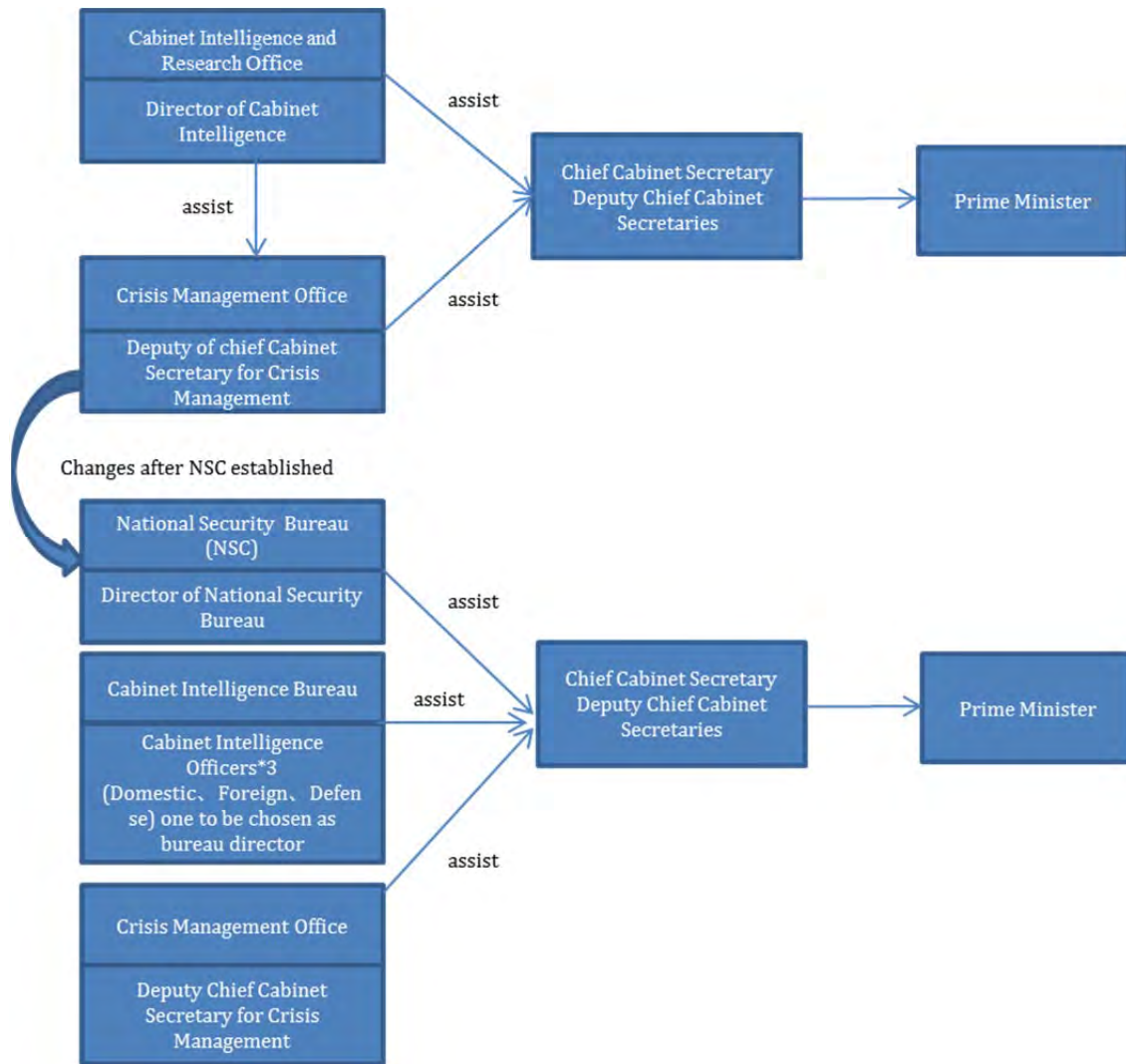


Figure 8. Current Setup at Prime Minister's Office.¹¹¹

3. Intelligence Sharing Mechanism

As previously mentioned, the Japanese intelligence units' linkage horizontally and vertically is weak. In order to solve this problem, the Japanese government established a Joint Information Council in July 1998. In October of that year a Cabinet Intelligence Council was established to solve the problem of intelligence sharing. In March 2008, more units were included to strengthen the functions, coordination, and sharing intelligence system, to grasp the important developments in Japan and abroad. The Joint

¹¹¹ "Abe Administration To Create New Cabinet Intelligence Bureau," *The Asahi Shimbun*. http://ajw.asahi.com/article/behind_news/politics/AJ201308300062.

Information Council was organized by the Deputy Chief Cabinet Secretary, and met once every two weeks. Their purpose is to aim at strengthening cooperation and communication between intelligence personnel.¹¹² See Table 4.

	Cabinet Intelligence Council	Joint Information Council
Time	Twice a year	Every two weeks
Department	Cabinet Secretariat	Cabinet Intelligence and Research Office
Host	Cabinet Secretariat	Deputy Chief Cabinet Secretaries
Attendees	Self-Defense Forces	1. Defense Intelligence Headquarters 2. Intelligence Security Command 3. JGSDF Military Intelligence Command Fleet Intelligence Command Air Intelligence Wing 4. Military Intelligence
	National Police Agency	1. Security Bureau 2. Criminal Investigation Bureau 3. Metropolitan Police Department 4. Police Headquarters 5. Police Station
	Coast Guard	Guard and Rescue Department
	Ministry of Justice	Public Security Intelligence Agency
	Ministry of Foreign Affairs	Intelligence and Analysis Service
		1. Radiopress, Inc 2. External Trade Organization 3. Sogo shosha

Table 4. Cabinet Intelligence Council and Joint Information Council.¹¹³

In 2005, Japan passed the Basic Emergency Bill to ensure the government basic framework for emergencies. The bill also aims to expand the Prime Minister's powers when handling emergencies. The Joint Intelligence Council (established by the government ministries) and Joint Intelligence Division (formed by the safety and accident rescue specialists) were increased to enhance the ability of the Prime Minister in rapid decision making. The bill empowers the Prime Minister to assign command immediately to related units without first convening an emergency cabinet meeting. The Joint Intelligence Council, composed of the Defense Agency and the Foreign Secretary, perform long-term analysis and assess the government's intelligence gathering to

¹¹² Dexun Wang, "The Development and Character of Japan's Crisis Management Mechanisms."

¹¹³ "Cabinet Intelligence Council," *Wikipedia*, last modified March 7, 2013, <http://ja.wikipedia.org/wiki/%E5%86%85%E9%96%A3%E6%83%85%E5%A0%B1%E4%BC%9A%E8%AD%B0>.

determine the government action and to authorize the relevant units' intelligence gathering. The joint intelligence headquarters assist the main cabinet meeting, which specializes in analyzing and evaluating information gathered from various departments.¹¹⁴ However, according to Japan's Cabinet Meeting's resolution in 2013, it is likely to combine the Cabinet Intelligence Conference meetings and the Joint Information Council together into a joint intelligence system.

D. CHAPTER CONCLUSION

Since the Tokyo subway sarin gas incident, Hanshin earthquake, and 9/11 terrorist attacks, the Japanese authorities have begun to establish relevant counterterrorism mechanisms and legislation. This is in direct relation to domestic and foreign threats. The Japanese have thoroughly re-examined their role in the international fight against terrorism and have taken to abandoning older methods and accelerating the counterterrorism legislation and supporting emergency response work. However, some legislation, such as the Counterterrorism Special Measures Law and the SDF amendments that provide a legal basis for military action, has proven controversial. In terms of the government emergency response mechanism, administrative reform started in 1997, through a unified command mechanism and flexible response procedures. The top decision makers can quickly issue a directive order which should be implemented immediately to achieve the purpose of a rapid command system. Meanwhile the central ministries and agencies at all levels of reorganization can eliminate duplication of tasks and improve administrative efficiency. The 9/11 incident has allowed the U.S. government to discover the loopholes in its counterterrorism system. Japan, as an American ally against terrorism is also facing the same problem; government agencies with vertical and horizontal linkages face the challenges of intelligence sharing and resistant attitudes of policy makers. If all these factors can be considered thoroughly Japan will be able to establish a more efficient response system, and thus be better able to face future threats.

¹¹⁴ Guoqiong Fang, "Japanese Government Submitted the Draft of Emergency Law for Adding Two Intelligence Agencies," *Military. Anhuinews*, last modified January 11, 2005. <http://mil.big5.anhuinews.com/system/2005/01/11/001101105.shtml>.

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V. STUDY OF TAIWAN COUNTERTERRORISM MECHANISMS

Located in East Asia, Taiwan has a special geographical location and shares many similarities to Japan. First, both are important hubs in international transportation and trade in the Western Pacific. Second, Taiwan is a U.S. counterterrorism ally although it is still not the main target of international terrorists. Even so, that does not mean Taiwan is completely excluded from the possibility of being attacked. According to intelligence obtained by Taiwan's national security and intelligence units, international terrorist organizations have long listed Taiwan as an unfriendly country. Al-Qaeda named Taiwan as one of the targets for terrorist attacks to retaliate against the U.S. Therefore, the possibility of being attacked cannot be ruled out.¹¹⁵ Based on the special geographical location, terrorist organizations can directly execute terrorist attacks against Taiwan or use Taiwan as a hub or springboard for launching terrorist attacks on specific neighboring countries, which would cause serious casualties for Taiwan or neighboring countries. Taiwan's geographical location not only provides excellent transport advantages, but it also appeals to international terrorist organizations as a great location from which to launch attacks.

On April 12 of this year, two Taiwanese suspects placed homemade bombs on the high-speed rail trains and in two legislators' offices. Luckily, these bombs were not detonated, and the two suspects immediately escaped to Guangdong, the mainland, after committing the crime. With the mainlanders' official assistance, the two men were arrested on April 14 and deported to undergo investigation and prosecution. The main suspect is a lawyer. Due to his dissatisfaction with an entrepreneur's way of treating employees, the suspects attempted to destroy public transportation and cause panic, thereby affecting stock market trading to make a profit.¹¹⁶ As it happens, on April 15, the U.S. bombing of the Boston Marathon took place. Two Russian-American brothers, dissatisfied with the United States in Iraq and Afghanistan fighting against Muslims,

¹¹⁵ "The Threat of Terrorism," *China Times*, December 31, 2003, A12.

¹¹⁶ "Due to Planted Bombs on a Taiwan High-Speed Train, Two Suspects Might Be Sentenced to Death," *Sinchew*, June 17, 2013, <http://news.sinchew.com.my/node/302138?tid=2>.

decided placed two bombs in the audience area in the marathon finish line. Three people were killed and 250 were injured in the tragedy.¹¹⁷ These two terrorist attacks raised domestic and foreign governments' concerns about terrorists. The Boston bombing not only ignited painful memories of the 9/11 incidents, it also had a significant effect on Taiwan, a land not attacked by terrorists. In fact, back in 2004, Taiwan's rice bomber incident had occurred, when the various government departments had different opinions whether or not this event was a terrorist attack. There was a high-speed rail bombing and the reason why the Executive Yuan did not initiate any response mechanism for it was because the Executive Yuan counterterrorism operations control office and Police Highways Department had different definitions of terrorist attacks.¹¹⁸ Therefore, this year, the Minister of the Interior released a publication on April 17, saying that Taiwan should strengthen its awareness and training to enhance and re-examine the counterterrorism response mechanism.¹¹⁹

The existing counterterrorism mechanism is based on the "anti-terrorist actions of organizational structure and operational mechanism," by the Executive Yuan in 2004, which is the two-track system of combining the administration and national security system. However, after Mr. Yin Jiu Ma assumes authority, the main focus will be placed on the NSC. Therefore, the Executive Yuan's Office of Homeland Security will have no real function. It is not only too small of a body (11 people), with an insufficient budget (by the NT \$30 million in 2010 reduced to 2013 to 5 million). Even the draft regulation of the counterterrorism mechanism has not yet been formally completed.¹²⁰ Boston bombing terrorist attacks once again prompted countries to consider their crisis and risk

¹¹⁷ Scott Wilson, Greg Miller, and Sari Horwitz, "Boston Bombing Suspect Cites U.S. Wars as Motivation, Officials Say," *The Washington Post*, last modified April 23, 2013. http://www.washingtonpost.com/national/boston-bombing-suspect-cites-us-wars-as-motivation-officials-say/2013/04/23/324b9cea-ac29-11e2-b6fd-ba6f5f26d70e_story.html.

¹¹⁸ Xinrong Lin, "Taiwan Should Strengthen Counterterrorism Mechanisms," *New Society for Taiwan*, August 12, 2013. http://www.taiwansig.tw/index.php?option=com_content&task=view&id=5292&Itemid=119.

¹¹⁹ Claudia Liu, Liu Shihyi and Sofia Wu, "Taiwan to Tighten Anti-Terrorism Training: Minister," *Taiwan News*, April 17, 2013. http://www.taiwannews.com.tw/etn/news_content.php?id=2198426.

¹²⁰ Guangci Wang, "National Security Should Be Treated Seriously," *United Daily News*, April 24, 2013. <http://udn.com/NEWS/OPINION/X1/7851792.shtml#ixzz2eiyB7Sxb>.

management, to review emergency measures, and to revise regulations. For Taiwan, the high-speed rail bombing made the government review seriously whether or not the existing counterterrorism mechanism is appropriate. The following will analyze the implementation the law, as well as the current situation of counterterrorism and intelligence unit operating conditions.

A. REGULATORY FORMULATION AND REFORM

To respond to the U.N. Security Council 1373 resolution of September 28, 2001, the 4385 meeting, to prevent terrorist acts, Taiwan has also taken action to fight against terrorists. Taiwan has long seen Mainland China as the main threat and Taiwanese believe that it is less likely that Taiwan will be under terrorist attack. However, following the change of the international political environment, Taiwan is facing threats that are different from the past. So for counterterrorism operations and the maintenance of world peace, the government and people should be more cautious, actively cooperate with relevant anti-terrorist actions, the laws establishing anti-terrorism mechanisms should be completed, and clearly define terrorism as a major crime. Taiwan should strengthen and exchange information with international counterterrorism intelligence organizations to establish cooperative relations with other countries, in order to effectively control terrorism.¹²¹

Legislation is the basis for the implementation of counterterrorism operations. Although the current administration has set up related laws or regulations, it has not identified a specific unit responsible for a counterterrorism program. The counterterrorism missions are enforced by a set of different institutions. Different chains of command may produce problems related to command responsibilities, resource consolidation, and intelligence sharing. So far the Legislative Yuan has not passed the Draft Anti-Terrorist Action Law. The following discussion is related to counterterrorism law enforcement.

¹²¹ Ligong Xie, "The Evaluation of Counterterrorism Laws," *Policy Journal* 53 (2003).

1. Draft Anti-Terrorist Action Law, Executive Yuan Version

After the 911 incident, the Taiwan Government took immediate response measures and started the National Security mechanism. President Chen Shui-bian convened the Sanzhi Conference on September 8, 2002, to discuss counterterrorism and democracy issues. There were ten conclusions from the conference, where the ninth and the tenth are counterterrorism-related, primarily in support of the U.S. counterterrorism operations, with Taiwan agreeing to take practical action to participate in the fight against terrorism. In addition, the conference also called for people to understand the terrorist threat to Taiwan and also indicated that Taiwan should strengthen the counterterrorism act, while the Draft Anti-Terrorist Action Law was derived from the Executive Yuan in response to terrorism.¹²²

The draft was divided into two versions. The first version was made in 2001 by the Executive Yuan, developed by the Ministry of Justice, and contained a total of 20 Articles. It mainly covers how to redefine the term terrorist, to establish a counterterrorism authority unit, to integrate intelligence sources, to organize military equipment, to keep a communication record, to seize terrorist-related property, and to set international cooperation and agreements. From the viewpoint of the Ministry of Justice, the domestic law already has regulations related to terrorist actions. However, in order to enhance the legal system, unifying powers, and intelligence, as well as international cooperation, special legislation is needed.¹²³ Furthermore, in response to acts of terrorism, the Executive Yuan set up the Counterterrorism Action Group in 2003.¹²⁴ And, on November 20, 2002, the Draft Anti-Terrorist Action Law-Executive Yuan Version was submitted to the Executive Yuan. The Legislative Yuan reviewed and approved it on

¹²² “Ten Conclusions of Sanchi Meeting Hosted by President Chen,” *Dajiyuan*, September 8, 2002.

¹²³ Minister of the Judicial, Interior and Council of Indigenous People, National Defense Joint Conference, The Legislative Yuan of R.O.C., *Ministry of Justice Supplementary Report: Counterterrorism Laws*, December 15, 2003.

¹²⁴ “The Main Elements of Establishment of Executive Yuan Counterterrorism Team,” *Law and Regulations Database of the Taipei City*, September 14, 2012.
<http://www.laws.taipei.gov.tw/taipei/lawsystem/showmaster02.jsp?LawID=A040010001004200-20030106&RealID=>.

November 12, 2003 and submitted it to the Legislative Yuan for deliberation.¹²⁵ (As of this writing, the draft still has not been passed.) If this draft is passed, then the relevant law enforcement agencies can give power to help prevent terrorist action from taking place. However, the draft has not yet been released to the Legislative Yuan.

There are some controversies in the Executive Yuan's version. First, there are concerns regarding the violation of human rights related to Article 8, Identity Verification of Suspected Terrorists. The law enforcement agencies have the right to detain suspects for 24 hours to verify their identity which might violate the suspect's human rights. Article 9, Suspected Terrorists Houses, allows law enforcement agencies to identify possible hazardous houses, which they can break into for inspection. This right may be abused by law enforcement officers. Articles 10 and 11 allow suspected accounts, real estate or property used to assist terrorists to be frozen.¹²⁶ These Articles should avoid the excessive tendency to exceed their power, which leads to possible violations of human rights and democracy. Secondly, the authority is unclear. Although Article 3 says that the Executive Yuan Counterterrorism Operation Team is responsible for commanding, the adoption of two-track system of the NSC and the Executive Yuan leads to the lack of clarity in terms of commanding power. Even though the Executive Yuan has the commanding power, its staff numbers, budgets, are professional abilities are somewhat inadequate. All the related staff members are part-time, unlike in the United States in which all counterterrorism efforts are coordinated by only the Department of Homeland Security, and DHS has a huge budget and professional staff. Similar to the U.S., the Japanese Cabinet Secretary is the only unit responsible for all counterterrorism policy-making, command, and coordination. Third, there is a lack of content specifications since only 20 Articles are related to counterterrorism. There are still many legal issues that are not explicitly covered, for example, relating to public transportation, nuclear energy, electricity or chemical factories, and foreigners' regulations.

¹²⁵ Legislative Yuan Motion 310, Government Proposal 9462, November 12, 2003.

¹²⁶ Fulong Xie, "The Study of Taiwan's Legal System of Anti-Terrorism from the Perspective of Security Management" (master's thesis, Central Police University, 2007), 61–65.

2. Draft Anti-Terrorist Action Law, Legislative Yuan Revised Version

In view of the first version, which has many shortcomings, on September 27, 2004, the Ministry of Justice proposed again the second edition of the draft amendment with a total of 41 Articles in four chapters. Unlike the first version, the second version focused on strengthening management by adopting active investigation of combat terrorism activists.¹²⁷ The second version of the draft amendments resolved the first version's problems. It referenced and integrated the contents of the legal provisions in many countries, particularly the U.S. Patriot Act which is the legal basis for Department of Homeland Security law enforcement. However, the U.S. Patriot Act was created in response to the 9/11 incident, and there are many disputes about the law in spite of fighting terrorists.

The U.S. Patriot Act expanded federal law enforcement agencies' powers in monitoring and electronic surveillance; increased the investigative agencies' power to share intelligence information; and also reinforced the government's control over money laundering and illegal immigrants.¹²⁸ Similarly, Japan invoked the concept of counterterrorism to rationalize and legalize the SDF's participation in international counterterrorism activities. This made people doubt their motives. While Taiwan echoed the UN in combatting terrorism, issues such as the capability to respond to terrorist threats and overextending the power of law enforcement agencies have been widely discussed. Therefore, the draft still did not pass when the Executive Yuan submitted it again to the Legislative Yuan in March 21, 2007.

There were still some concerns related to the human rights dispute, communications monitoring, terrorist property seizure, freezing of funds and other related issues. Up to this day, the draft has not passed.¹²⁹ Although the Ministry of Justice had promised to rediscuss the third draft of the Anti-Terrorist Action Law three months after

¹²⁷ Ibid., 85.

¹²⁸ Tingrong Cai, "The Law Challenges of Counterterrorism-From the Perspective of Human Rights," *The 2nd Terrorism and National Security Academic Seminar and Conference*, 2006, 128.

¹²⁹ Xianxing Su, "The Research Process of Enacting Related Anti-Terrorism Laws in Taiwan," *Central Police University: The 8th Terrorism and National Security Academic Seminar and Conference*, 2012, 89.

the high-speed rail bombing in 2013, it still has not yet been completed. As a result, Taiwan still has no single unit responsible for the Draft Anti-Terrorist Action Law.¹³⁰

3. Current Regulations and Laws

Although the Anti-Terrorist Action Law has not yet passed, Taiwan has other regulations to address possible terrorist attacks. According to Central Police University Associate Professor Ting Rong Cai, the Draft Anti-Terrorist Action Law focuses on three areas. The first is the structure for the organization, the second is authorization of power to law enforcement agencies, and the third is sanctions for the terrorists.¹³¹ While the intention of unifying power is to effectively integrate the resources of each unit, there are already many laws for the command system in the relevant government agencies and law enforcement to apprehend and punish terrorists. Below is a brief description of important laws and regulations.

a. Command Organization and Structure

Taiwan's Constitution Article 2, 4, specifically explains the command organization and structure between the president, NSC, and NSB.¹³² The NSB, when coordinating intelligence, should convene the NSB Intelligence Coordinating Council, hosted by the head of the NSB and attended by the intelligence agencies. In addition, the Disaster Prevention and Relief Act also documents the details related to natural and man-made disasters and the response to them. In the second chapter, concerning the disaster prevention organization, the functions and responsibilities of the central government, county, city, and town governments are described.

¹³⁰ Jungu Liu and Jinsong Zhen, "Tseng, Yungfu: The Draft of Anti-Terrorism Law Will Be Complete," *Chinese Television System*, April 19, 2013.
<http://news.cts.com.tw/udn/politics/201304/201304191229041.html>.

¹³¹ Tingrong Cai, "The Law Challenges of Counterterrorism-From the Perspective of Human Rights," 202.

¹³² The president is the highest command of the country and is responsible for establishing an NSC and Safety Authority; Organic Act of National Security Council, Article 2 and 4: NSC is the advisory board for the president; Organic Act of NSB Article 2 and 17: National Security Bureau is responsible for national security intelligence, and integration, support, and coordination of six units such as the Coast Guard Administration.

b. Law Enforcement Authority and Punishment for Terrorists

The National Security Act, Article 3, the Communication Security and Surveillance Act, Articles 2 and 7, the manual of police investigation of crimes, Money Laundering Control Act, Special Services Regulations, the Draft of Important Infrastructure Facilities Security Regulations, Domestic Contingency Response Mechanisms, and the Guidelines of the Central Government Counterterrorism Response Center all address different responsibilities for handling counterterrorism.¹³³

At present, the existing legal basis for government counterterrorism organizations in Taiwan is very complete, but the terrorist threat is constantly evolving and the existing law may not be able to address the actions of terrorist organizations in the near future. The law must keep pace with terrorist tactics. Take the United States as an example. The 9/11 incidents made the U.S. government aware of the importance of aviation safety and stricter regulations. So on November 19, 2001, the Aviation and Transportation Security Act was passed which gives law enforcement a basic reference to execute the law.¹³⁴ However, Taiwan is now facing not only a threat to national defense, but also dramatic climate change which has triggered typhoons, floods, earthquakes, and other natural disasters in recent years. Along with the fear of terrorist strikes, Taiwan has to face other complex disasters in the future. The severity of these events is as great, or greater in some cases, than a war or terrorist attacks. This is why the United States established the Department of Homeland Security (DHS), which is integrated with the Federal Emergency Management Agency (FEMA) and 22 other relevant agencies. The purpose of DHS is not limited to a single processing task, but is intended to strengthen disaster management, and to reduce the U.S. inter-agency task duplication, lack of integration, and administrative inefficiencies. Japan in recent years has also suffered from earthquakes, storms, snowstorms, floods, and even nuclear disaster, causing the government to use the national security system's "all disaster countermeasures" as the national security policy planning basis, which includes comprehensive disaster threat

¹³³ Laws and Regulations Database of the Republic of China, last modified November 29, 2013. <http://law.moj.gov.tw/Eng/>.

¹³⁴ Yurui Ke, "The Study of U.S. Aviation and Transportation Security Act 2001, 2002, Border Police Academy Seminars," *Central Police University*, 2002, 41–67.

protection.¹³⁵ In view of this, Taiwan's national security priorities should focus on national security, the establishment of an emergency response mechanism for complex disasters and terrorism attacks. Therefore, the government departments need to revise appropriate laws promptly and review foreign cases in order to learn from their experiences, and then set strict regulations for law enforcement agencies.

B. OPERATIONS OF THE DECISION-MAKING MECHANISM AGAINST TERRORISM

1. President's Command Power

Taiwan adopts a form of government called Semi-Presidentialism, which is similar to that of France. In terms of counterterrorism command, it is based on the amendment of the Constitution, Article 2, Paragraph 4: "The president may establish NSC and NSB in order to make decision related to major policies of national security." Defense Act Article 9 regulates that: "The president should convene the NSC in order to make decision relating to the defense of national security plans, or in response to major defense emergency situations." Further, the Organic Act of National Security Council Article 2 says that "NSC serves as the main advisory institute for the President when it comes to National Security." Article 4 says that NSC is chaired by the President; according to the Draft Anti-Terrorist Action Law Article 3, Paragraph 3, the national security policy is dominated by the President. And the President of the Executive Yuan and the NSC are appointed by the President, with the presidential decision to execute policies.¹³⁶ The President can obtain information on national security issues from the NSC in peacetime and when in a major crisis, officials can convene a meeting to develop or carry out crisis management. The Secretary of National Security Council, Director-General of the National Security Bureau and consultant committee serve as the consulting and advisory members to the President for any presidential national security policy decisions. The convening of the NSC is required because it is not within the purview of

¹³⁵ Xianxing Su, "The Research Process of Enacting Related Anti-Terrorism Laws in Taiwan," 101.

¹³⁶ Shenchang Hsiao, "The Research of Taiwan's Counterterrorism Mechanisms" (master's thesis, Hsuan Chuang University, 2009), 53.

the Executive Yuan to perform in a crisis or when an emergency order issued. Therefore, it can petition the president to convene the meeting. The NSC has two functions: making “meeting decisions” and serving as an “advisory body.”¹³⁷

Although the President has the authority to decide major policies on national security defense, diplomacy, and cross-strait relations matters, the main authority for introducing a bill under normal conditions still resides with the Executive Yuan and lawmakers. In some cases, the Judicial Yuan, Examination Yuan, and Control Yuan can also suggest some bills. The Constitution does not empower the president to propose bills. The Executive Yuan plays an important role in implementing the president’s political commitment and policy objectives; therefore, the bills that the president desires are proposed by the legislators from the same party or the Executive Yuan.¹³⁸ However, the way that the President is empowered might have influence on decision making and the national security. Compared to the President of the United States, Taiwan’s President is granted less power by the Constitution.¹³⁹ Therefore, in national security decision-making system, the NSC serves only as the presidential advisory entity and has no decision-making powers. The Executive Yuan is still the main actor and the role of the Executive Yuan has a significant impact on the President in issuing a decision. If the Premier and the President are in the same party, although a resolution from the NSC may be easy to pass, it may also sideline the Premier’s function or the function of the NSC, making their responsibilities more difficult.¹⁴⁰ So while a bill is in the review process, it is subject to the interaction between the major political parties and legislators’

¹³⁷ Jinqiang Su, “National Security and Crisis Management Mechanisms,” *New Century Chinese Journal* 21, (2003), 15.

¹³⁸ Hongming Chen, “The Effects of President Propose and Enact Laws under Semi-Presidentialism: The Study of the Presidential Term of Ma Ying-jeou,” *Soochow Journal of Political Science* 30, no.2 (2012), 5.

¹³⁹ Wenzheng Chen, “The Coordination and Integration Functions of the National Security Council: The Comparison between Taiwan and the United States,” *Central Police University: The 14th Terrorism and National Security Academic Seminar and Conference*, 2011, 10.

¹⁴⁰ Qingyu Hong, “The Study of the Relationship between Intelligence and National Security under Globalization” (master’s thesis, College of International Affairs, 2005), 176.

administrative departments, political parties, and ideological factors, which are likely to be an important factor in a bill's enactment.¹⁴¹ See Figure 9.

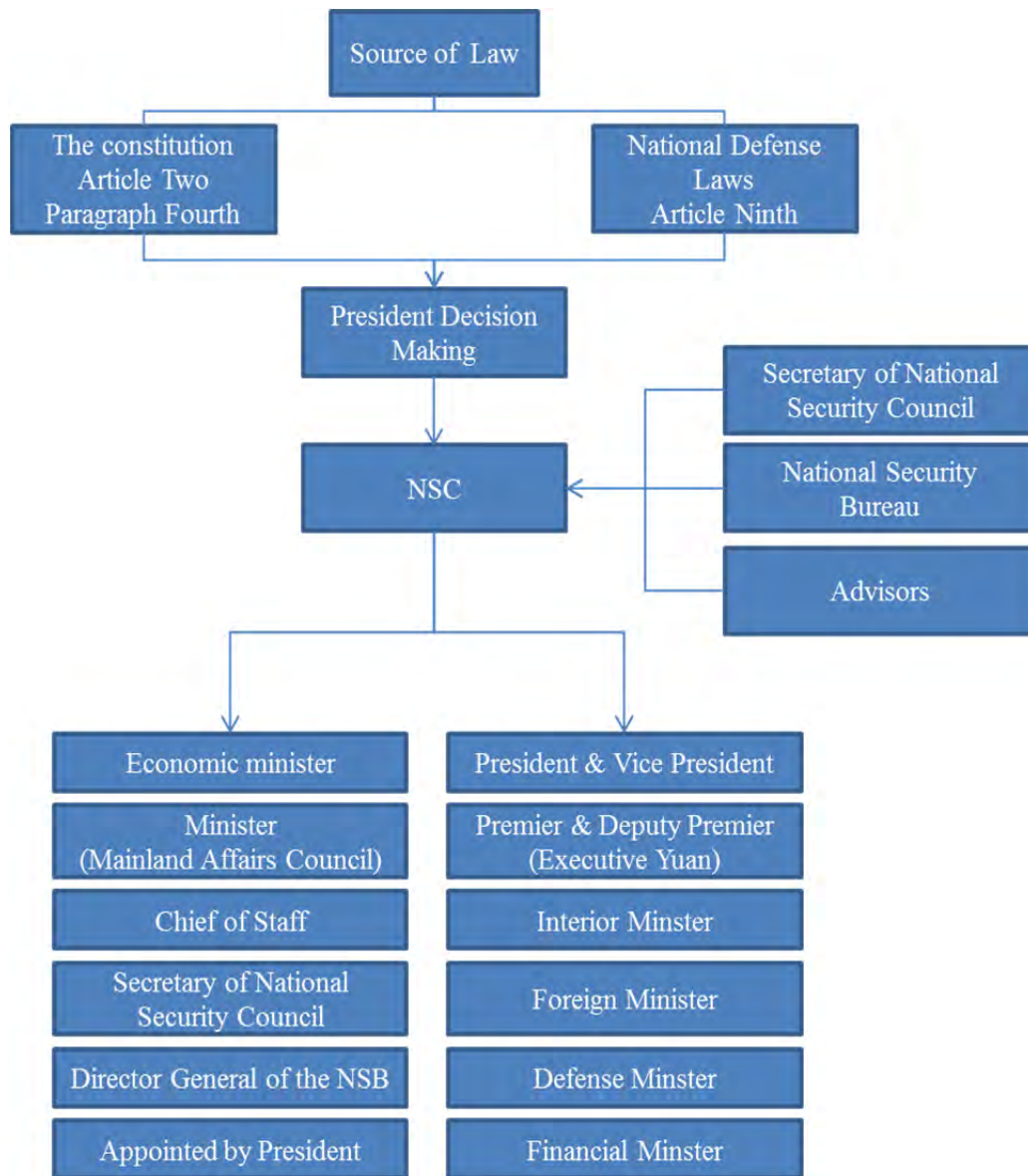


Figure 9. National Security Decision-Making Mechanisms.¹⁴²

¹⁴¹ Hongming Chen, "The President's Position on Taking of Bills and His Influence on Legislation under Semi-Presidentialism: the Experience of President Ma, Yingjeou" (master's thesis, Chung Yuan Christian University, 2012), 50.

¹⁴² Shenchang Hsiao, "The Research of Taiwan's Counter-Terrorist Mechanisms" (master's thesis, Hsuan Chuang University, 2009).

2. Status Quo of the Executive Yuan's Counterterrorism

Since the United States 9/11 incident, the Taiwan government is addressing the possible threat of international terrorism and activities. At all levels of the administrative system they are evaluating national conditions and formulating a comprehensive and holistic anti-terror mechanism, reviewing structure and contingency planning, coordinating and integrating the central government ministries. In addition, they are coordinating between the executive power and local government resources to jointly promote counterterrorism preparedness.¹⁴³ *The Guidelines of Executive Yuan Counterterrorism Operation Team* that were released on January 6, 2003, required a counterterrorism action policy, training and response mechanism, and other related matters. The team is formed by the president and the vice president of the Executive Yuan, members from the Ministries Council, and it totals 15 members. Every three months, the team members need to convene a meeting, or whenever necessary, and may invite experts and relevant agencies to send personnel to attend the meeting.¹⁴⁴

On November 16, 2004, the Executive Yuan Counterterrorism Operation Policy Meeting set up the Counterterrorism Framework and Organizations Operational Mechanism and passed it in August 2007. In addition, the Executive Yuan's Office of Homeland Security was established and required as soon as possible completing the work on terrorism preparedness, strengthening counterterrorism drills that simulate the existing counterterrorism organization in Taiwan. The operation of the counterterrorism mechanism is to adopt the "dual-track" system, the national security system and administrative system. There are three phases, first is the "normal" phase, second is the "disaster" phase, and the third is the "recovery" phase. Between the first and second phase there is a "conversion mechanism" which is intended to assist a smooth transition

¹⁴³ Zhengfang Huang, "Building Homeland Security: Five Response Systems and Homeland Security Net by All Hazards Approach," *Defense Journal* 27, no.2 (2012), 16.

¹⁴⁴ "The Anti-Terrorism Action Group under the Executive Yuan," *Rootlaw*.
<http://www.rootlaw.com.tw/LawArticle.aspx?LawID=A040010001004200-0920106>.

from the existing administrative structure to a function-oriented crisis response management organization.¹⁴⁵

At the “normal” phase, the Executive Yuan Homeland Security Policy Meeting, Executive Yuan Office of Homeland Security, Comprehensive Situation Analysis Team of NSC, NSB Situation Analysis Team, and Counterterrorism Intelligence Integration Center are responsible for instructing counterterrorism tasks (see Figure 10). The Executive Yuan Homeland Security Policy Meeting is responsible for counterterrorism policy making. In order to strengthen the function of the Executive Yuan Counterterrorism Policy Conference, the Executive Yuan Office of Homeland Security established a Counterterrorism Operations Control Office. The NSC convenes the NSB, the Executive Yuan system, intelligence agencies, and other personnel matters to establish a Comprehensive Situation Analysis Team of the NSC, in accordance with the future government tasks, to develop detection methods and conduct a preliminary prevention of terrorist attack. Furthermore, analyzing the situation, understanding the risk of terrorist attacks and terrorist attack types, and developing coping strategies according to intelligence, are also included activities. Finally, the Counterterrorism Intelligence Integration Center reports the analyzed results to the NSC.¹⁴⁶ This system is based on the existing administrative structure to strengthen the communication mechanism between the Executive Yuan and national security system. It is intended to provide integrated intelligence for the president to make decisions about whether to start response mechanisms through a thorough communication and cooperation between the National Security System Office of Homeland Security and the Executive Yuan.

¹⁴⁵ Shangxian Wen, “The Study of Terrorists’ Attack by Nuclear and Radiation and Our Response Measures,” *The 4th Terrorism and National Security Academic Seminar and Conference*, 2008, 263.

¹⁴⁶ Shiyuan Ma, “The Study of Counterterrorism, Disaster Prevention, All-out Mobilization Three-in-one Joint Operations,” *Research Plan Submitted by Executive Yuan*, 2008, 25–26.

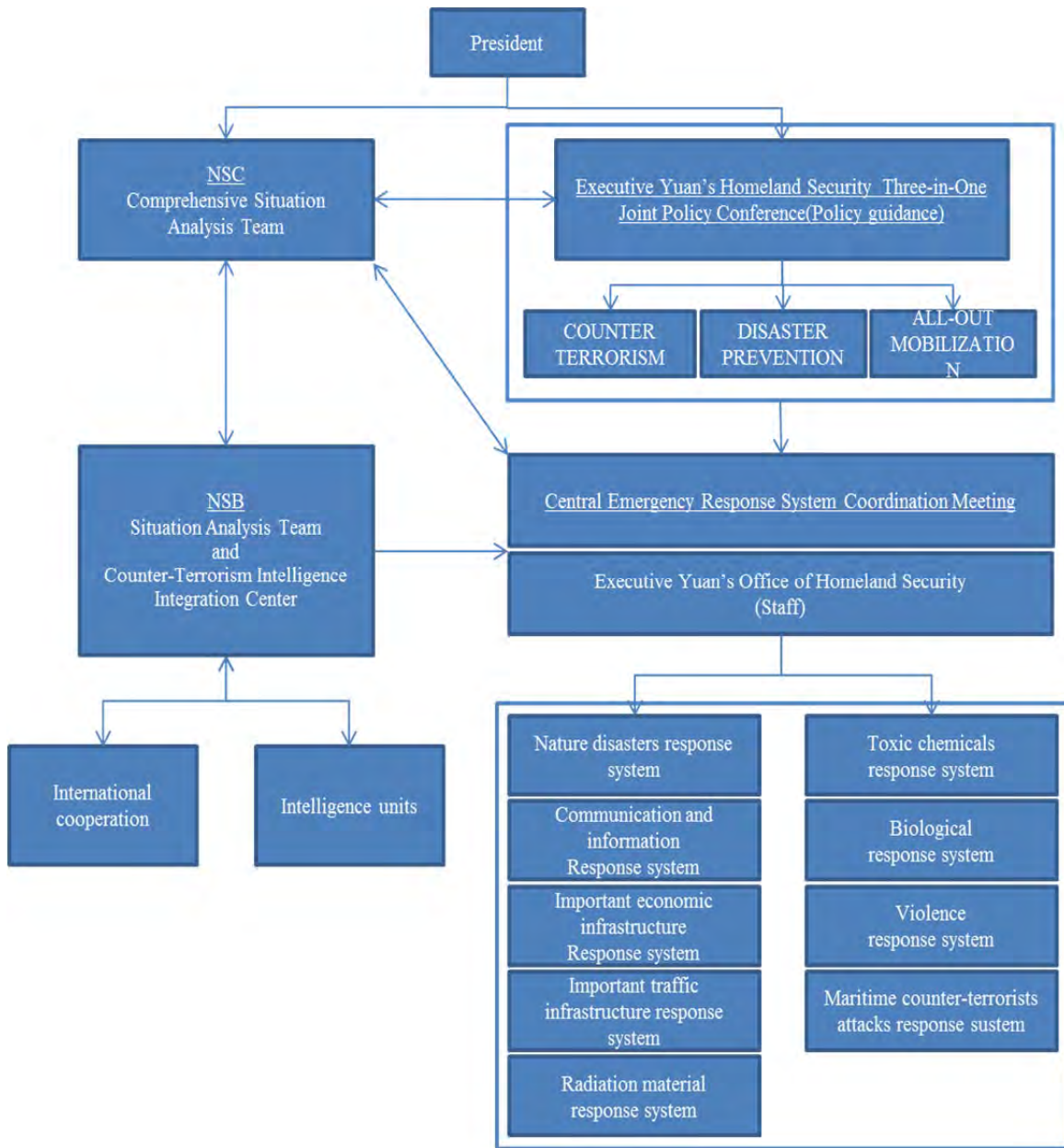


Figure 10. Central Government Counterterrorism Command System–Normal Phase.¹⁴⁷

¹⁴⁷ Shangxian Wen, "The Study of Terrorists Attack by Nuclear and Radiation and Our Response Measures," 264.

In the “disaster” phase, the national security system is established by the NSC Counterterrorism Crisis Management Team. Depending on the types of terrorist attacks, the administrative system will build a counterterrorism organization. When more than two types of terrorist attacks occur, the Executive Yuan will initiate the First Class Operation Center. The Office of Homeland Security will report to the Executive Yuan Counterterrorism Policy Conference and suggest starting the Counterterrorism Response Center, according to the NSC Comprehensive Situation Analysis Team’s analyzed result.¹⁴⁸ If a single terrorist attack occurs, the Executive Yuan will establish a Second Class Operation Center, chaired by the ministers and local governments. An Advance Command Post is established in the disaster area in accordance with the extent of damage. The heads of local governments are the commanders and regional military, police, firefighters, and civil defense units join to implement counterterrorism and relief missions (see Figure 11). Similarly, Taiwan is adopting this model to prevent and address natural disasters. In recent years, the damage caused by floods or typhoons has been effectively reduced. The central government and local governments can limit the losses and recover faster from disasters and also allocate resources within the region efficiently.

¹⁴⁸ Shenchang Hsiao, “The Research of Taiwan’s Counter-Terrorist Mechanisms,” 59.

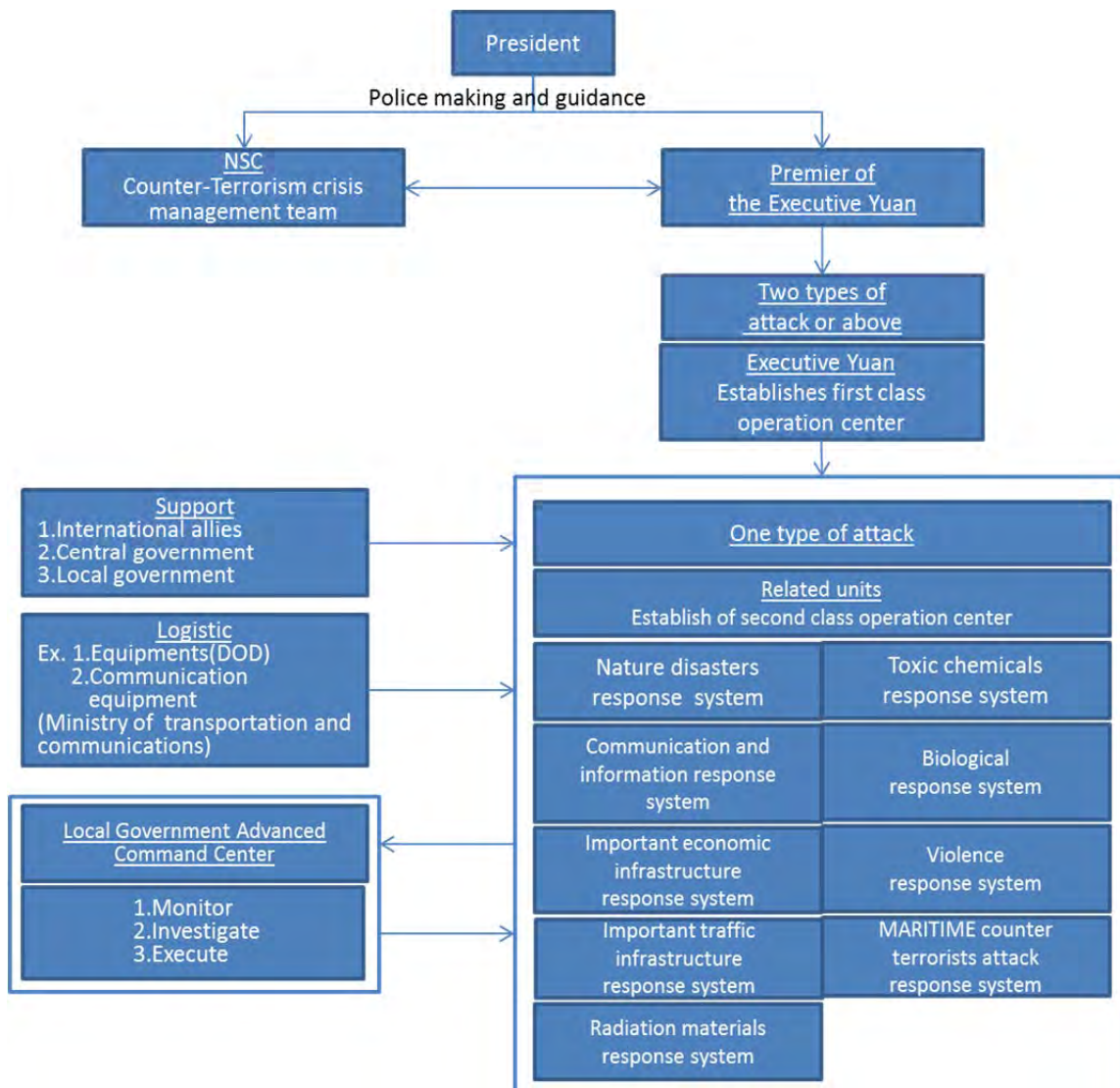


Figure 11. Central Government Counterterrorism Command System—Disaster Phase.¹⁴⁹

Currently, there are two problems for the government crisis response mechanism. First, the central authority to deal with disasters and crises is dependent on the types of disasters and crises. Although it can minimize the damage, the lack of prevention does not match the principle of crisis management. Because crisis management includes prevention, treatment, recovery and implementation, and its main purpose is to predict the potential occurrence of crisis and minimize the related damage.

¹⁴⁹ Shangxian Wen, “The Study of Terrorists Attack by Nuclear and Radiation and Our Response Measures,” 264.

Second, the high-speed rail bombing that occurred this year makes the government realize that the Executive Yuan Counterterrorism Operation Team did not convene the meeting on a regular basis. Even the Office of Homeland Security, which is responsible for the counterterrorism, has never had any meeting since it was established. However, on August 16, 2007, the Executive Yuan Homeland Security Three-in-One (Counterterrorism, Disaster prevention, All-out mobilization) Joint Policy Conference resolution said that the Executive Yuan Counterterrorism Office, in accordance with the Homeland Security Office, is to strengthen the function of the three systems and to coordinate with the Executive Yuan Homeland Security Three-in-One Joint Policy Conference. Take the United States and Japan as examples, after the 9/11 incident, the two countries adopted an All-hazards Common Response Mechanism for dealing with natural disasters and terrorists threats.¹⁵⁰ The U.S. established the Department of Homeland Security to ensure the nation's security. It is not only limited to the purpose of combating terrorists but also for handling disaster management, border control, and transportation security.¹⁵¹ Although the 2005 Katrina hurricane revealed the communication and integration problems between the federal, state, and local governments, it is not hard to see the determination of the U.S. government to strengthen its homeland security. Similarly, Japan passed the Terrorism Special Measures Act rapidly to support counterterrorism and create the Disaster Prevention Minister position under the Central Disasters Response Conference, which is responsible for disaster prevention and rescue operations. The purpose is to expand and strengthen disaster prevention and relief under the existing system. Both countries established interagency-level components, while giving them greater powers to deal with disasters as well as more resources and flexibility in the implementation of substantially enhanced disaster prevention and crisis management capabilities.¹⁵² On the other hand, Taiwan's current national counterterrorism response mechanisms, the Counterterrorism Operation and

¹⁵⁰ Zhengfang Huang, "Building Homeland Security Five Response System and Homeland Security Net by All Hazards Approach," 23–25.

¹⁵¹ Congressional Research Service, *Homeland Security Office: Issues and Options*, CRS Report RL31421 (Washington, DC: Library of Congress, May 20, 2002).

¹⁵² Chiunhsun Chen and Fangyo Huang, "Study on Taiwan's Anti-Terrorism System after 9/11 Attack in USA," *New Technology* (2008), 34–35.

Policy Conference, the Central Disasters Response Conference, and National Defense Preparation Conference, all convene meetings in accordance with laws and regulations. However, the content of the meetings mostly overlap, although authorities, regulatory norms, and contingency mechanisms are not quite the same.¹⁵³ As crises may occur in a split second or may also gradually evolve, they cannot be solved by a single agency. If a natural or man-made disaster occurs, addressing it involves vertical and horizontal linkage, coordination, and integration. Only if all the related units cooperate effectively will it bring out the true usage of all the resources when crisis happens. All kinds of simulation exercises, coordination, and allocation of resources or experience sharing will help all units to integrate well.

3. National Security Council

The function of the NSC is as an advisory body to the president on national security decision-making of major policies. The president, in peacetime, can get advice from the NSC on national security. In peacetime, the NSC also establishes a team for comprehensive judgments on a major crisis situation and convenes meetings immediately to solve crises.¹⁵⁴ While the Constitution empowers the president to be responsible for foreign defense and cross-strait relations, the government ministries report mainly to the Executive Yuan; therefore, the NSC is important to the president in communicating and coordinating between different units. Compared to other advanced democratic countries, such as the U.S., Japan, France, and Britain, which hold regular NSC meetings, Taiwan has only convened non-regular NSC meetings so far. Although the Taiwan NSC's purpose and function is similar to that of the NSC in other democratic countries, there are still substantial differences. The current national security mechanism regulates responsibilities for different units; the Department of Defense is responsible for national defense and military affairs; the Ministry of the Interior is responsible for major domestic disasters, and the Central Disasters Response Conference will integrate policies and allocate resources. In addition, the National Police Agency's Central Disasters Response

¹⁵³ Zhengfang Huang, "Building Homeland Security Five Response Systems and Homeland Security Net by All Hazards Approach," 25.

¹⁵⁴ Jinqiang Su, "National Security and Crisis Management Mechanisms," 15.

Center is responsible for the disaster relief mission, and the Atomic Energy Council is responsible for nuclear disasters. All these units are under the jurisdiction of the Executive Yuan, and the NSA is responsible for national security intelligence, which is under NSC jurisdiction. The two-track system of intelligence and administrative authorities is feasible currently, but the lack of one independent unit to integrate the various units will cause potential problems in coordination, command, and integration of resources when complex disasters occur.¹⁵⁵

According to the Executive Yuan's counterterrorism operations structure, when the Comprehensive Situation Analysis Team of NSC determines an incident to be a terrorist attack, then the Counterterrorism Crisis Management Team will be responsible for managing the crisis. The NSC group, the Counterterrorism Department of the Homeland Office, and related staff are the main people who work for the counterterrorism response center. As mentioned earlier, the NSA and the administrative system should share intelligence, exchange information, and cooperate collectively; however, the different concepts of handling crises and the different structures of each unit might cause operation problems for the counterterrorism mechanism.¹⁵⁶ Although Taiwan's NSC has a coordination mechanism between units, its function is similar to the Meeting of Deputy Directors of the U.S., which has a limited capability to deal with crisis.¹⁵⁷ Furthermore, the scale of the NSC and its related units are smaller. In 2003, the Organic Act of the National Security Council amended the law to increase the number of staff from 9 to 11 people to 36 by 2008. It is still small compared with its U.S. counterpart which has 56 people.¹⁵⁸

¹⁵⁵ Jinqiang Su, "National Security and Crisis Management Mechanisms," 16.

¹⁵⁶ Lord Carnes, *The Presidency and the Management of National Security* (New York: Free Press, 1988), 20–23.

¹⁵⁷ Zhengyi Lin, "The Implication of the U.S. National Security Council to Taiwan," *New Society for Taiwan*. http://www.taiwansig.tw/index.php?option=com_content&task=view&id=4898&Itemid=119.

¹⁵⁸ Wenzhang, Chen, "The Coordination and Integration Functions of National Security Council: The Comparison between Taiwan and the United States," Central Police University 14th Annual Terrorism and National Security Academic Seminar and Conference, 2011.

The NSC serves as the president's advisory council, so it is as an extension of the presidential power, and the president's power is highly related to the function of the NSC. The president's political party affiliation also affects NSC's policies, especially in terms of national identity, often resulting in partisanship, and indirectly affects the implementation of national security policy. If the national security system and administrative system do not interact and connect well with one another on a regular basis to maintain good connection, it will also cause a weak vertical linkage. But national security policy is highly related to national interests and the welfare of the people; hence, the president and the political parties should not be bound by their party politics and should let the NSC play an actual function.¹⁵⁹

C. RESEARCH AND ANALYSIS OF THE INTELLIGENCE AGENCIES

1. Status Quo

The NSC is the main intelligence agency in Taiwan. The Organization Act of NSB was established in 1994 and ensures the NSC integrates intelligence and implements special tasks.¹⁶⁰ The current law enforcement related to intelligence is based on the Organic Act of the National Security Council, the Organic Act of NSB, the Classified National Security Information Protection Act, and the Act of National Intelligence Work. Even though some units besides the NSC have the capability to collect intelligence, the NSC is still the lead of national security. In order to avoid intelligence agencies interference in politics, the Legislative Yuan passed the Act of National Intelligence Work on January 14, 2005, and finished amending it in 2011. The Act of National Intelligence Work regulates that the intelligence agencies should be neutral politically and cannot involve themselves in political activities. In addition, Article 2 of the newly amended Organization Act of NSB regulates that the NSB belongs to the NSC and integrates national security intelligence and implements special tasks.¹⁶¹ The NSC

¹⁵⁹ Hong, "The Study of the Relationship between Intelligence and National Security under Globalization," 176–177.

¹⁶⁰ "Organization Act of National Security Bureau," *Rootlaw*.
<http://www.rootlaw.com.tw/LawArticle.aspx?LawID=A030010000001800-1001231>.

¹⁶¹ *Ibid*.

Counterterrorism Intelligence Integration Center manages all the intelligence agencies and convenes the General Coordination Meeting of National Intelligence on a regular basis. Furthermore, the general coordination meeting of National Intelligence Implementing Regulations convenes the sub-meetings on international intelligence, intelligence about the Chinese mainland area, security intelligence of the Taiwan area, science-technology intelligence, and communications security separately to ensure the function of the whole intelligence system can be carried out completely (see Figure 12).¹⁶² The NSB now has six intelligence-related divisions which are International Intelligence, Intelligence within the Area of People's Republic of China and Taiwan, Analysis of the Nation's Strategic Intelligence and Telecommunications Security and Control and Development of Secret Codes and Development of Secret Codes and Facilities. Each agency is still responsible for its own area of intelligence. However, national security is always beyond one level and no one single unit can provide a complete analysis of intelligence. If there were an office to integrate all the intelligence, record suspicious terrorist information, and establish a complete database, then the Taiwan can grasp terrorist intelligence more effectively.¹⁶³

¹⁶² National Security Bureau, R.O.C "Mechanism of Intelligence Work, National Security Bureau." http://www.nsb.gov.tw/page04_06.htm.

¹⁶³ Jianhua Liu and Zhongzhen Guo, "Reforming U.S. Counter-terrorism Mechanisms After 9/11 and the Implication for Taiwan's Counterterrorism Policy," *Army Academy Journal* 45, no. 503 (2009), 153.

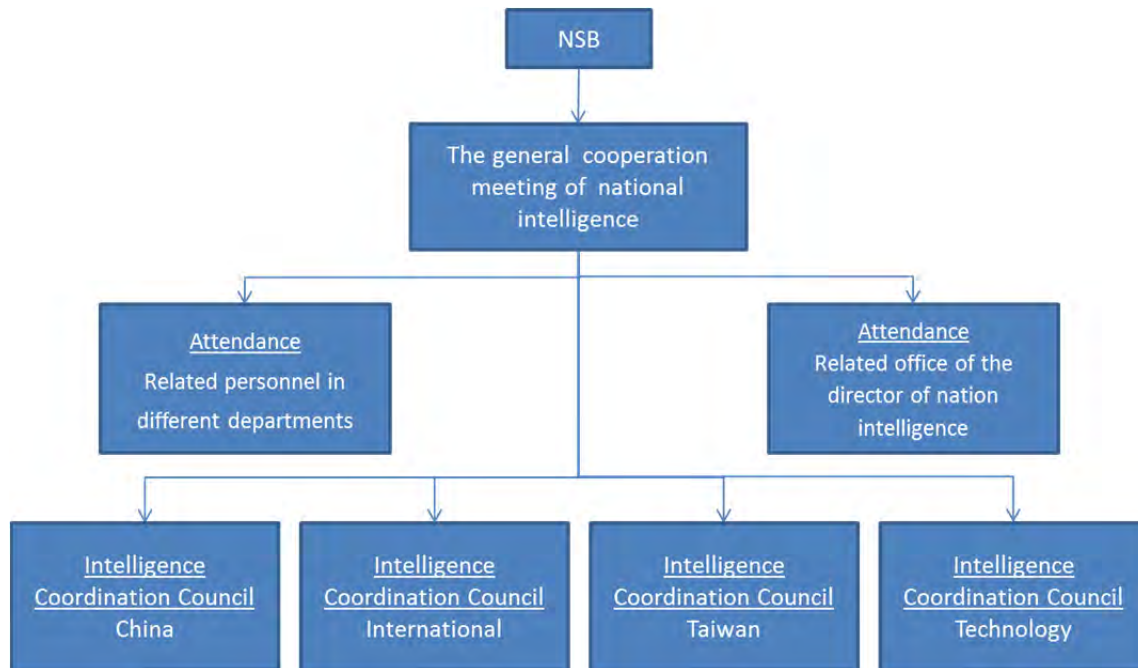


Figure 12. National Intelligence Operation System.¹⁶⁴

2. Revolution and Integration of Intelligence Sources

Due to the variety of intelligence agencies, there are conflicts or overlaps between them. Duplicity of work not only wastes time and money, it also leads to inefficiency when it comes to responding to natural disasters or combating terrorists. It reveals the importance of integration and coordination between agencies. Take the United States as an example; there was a major reform of intelligence agencies after the 9/11 incident. The reform effort was intended to coordinate intelligence work between the Department of National Defense, NSC, and CIA. However, according to the 9/11 Commission Report, the United States’ “Intelligence Community lacks cooperation among the different components and [does not place] the emphasis on information sharing and collaboration [called for] in the 2004 law.”¹⁶⁵ In the U.S., intelligence gathering units belong to various agencies, among which the Department of Defense has the most advanced high-tech

¹⁶⁴ Hong, “The Study of the Relationship between Intelligence and National Security under Globalization,” 199.

¹⁶⁵ Bruneau, “Control of Intelligence Activities in the United States,” 17.

equipment. The Department of Defense also does not get along well with the CIA.¹⁶⁶ The parochialism has existed for a long time, making these agencies unable to integrate existing information systems. The nature of intelligence cannot be enhanced when various intelligence agencies lack cooperation, adequate training and education, as well as support for the intelligence units from other leaders. All of which are deeply affected by the intelligence reform efforts after 9/11. In order to improve this phenomenon in the U.S., besides actively maintaining the balance between democracy and intelligence, the use of satellite technology, the legislative, budgetary, and oversight powers, intelligence personnel training, etc., are all expected to enhance intelligence capabilities and integration.¹⁶⁷ Another problem is that these agencies are involved in intelligence gathering which might violate citizens' civil rights and cause controversy. So while intelligence units, under the principle of safeguarding national security, have much authority to engage in communications and network monitoring, it still requires the government's effort to improve these problems.

As for Japan, after the 9/11 incident, in order to increase intelligence gathering capability, the government also reformed the structure of intelligence agencies by giving them more power, more flexibility in gathering intelligence, and authorizing more resources. Japan greatly enhanced its ability to handle and prevent a crisis. On the intelligence units' horizontal and vertical contacts, the contract intelligence meeting, the Cabinet Intelligence Conference convene intelligence unit meet periodically to solve the problems of intelligence sharing. In the aspect of improving intelligence gathering capacity, the intelligence-gathering satellite program began in 1998, and in 2003 began to launch spy satellites, which take a picture every day, so to improve emergency response capabilities.¹⁶⁸ In addition, extensive use of private intelligence agencies to assist in intelligence gathering was causing problems, such as hard-to-discipline employees and

¹⁶⁶ Bruce D. Berkowitz and Allan E. Goodman, *Strategic Intelligence for American National Security* (Princeton: Princeton University Press, 1989), 43–44.

¹⁶⁷ *Ibid.*, 17–19.

¹⁶⁸ Jianzhong Lan, "A Secret: Japanese Launched an Information Gathering Satellite Radar-4," *People*, January 30, 2013. <http://scitech.people.com.cn/BIG5/n/2013/0130/c1007-20370332.html>.

standards that were difficult to maintain. The pros and cons related to U.S. and Japanese counterterrorism intelligence mechanisms can be an important reference for Taiwan's intelligence system.

As for Taiwan's intelligence sharing mechanism, the current Draft of the Anti-Terrorist Action Law, the Legislative Yuan Revised Version, and the Act of National Intelligence Work require all the government agencies to share intelligence related to national security. Besides the intelligence collecting done by the NSB, the five Yuans and related agencies have to provide intelligence to the NSB. The NSB will integrate and analyze all the intelligence and then send the results to the NSC Comprehensive Situation Analysis Team. The Comprehensive Situation Analysis Team will then distribute the results to different agencies for reference. Meanwhile, all the agencies can request intelligence information they need for the purpose of national security. However, there are no detailed rules regarding the request process and this might cause some confusion. Furthermore, even though the NSB is responsible for integrating, coordinating, and supporting all the intelligence agencies, there are some difficulties in reality because different agencies belong to different units. The NSB has no power over other intelligence agencies' employees and budget review.¹⁶⁹ There are some other problems; for example, the NSB's central command structure of counterterrorism is the same level as that of the other agencies, and therefore it has no power to control others. Unlike the U.S. Department of the Homeland Security which has a complete intelligence management system, Taiwan also lacks experience in counterterrorism, and there is less horizontal integration between agencies. Even if there were an inter-agency counterterrorism unit, it would require a breakthrough innovation in the effective integration and use of the intelligence so that it is could effectively control any possible counterterrorism intelligence.

¹⁶⁹ Shechun Wang, *Ding, Yuzhou Memoir* (Taipei: Bookzone, 2004), 340.

D. CHAPTER CONCLUSION

In order to diversify the intelligence source and to avoid the monopoly of one intelligence agency, countries establish all kinds of intelligence agencies as needed. This diverse approach prevents the excessive concentration of power in intelligence agencies. Therefore, the overlap of responsibilities but no subordinate relationship between agencies is necessary. In sum, establishing an intelligence coordination mechanism is necessary.¹⁷⁰ Learning from the U.S. and Japan's experience of establishing counterterrorism mechanisms, it is not difficult to see that integrating different intelligence agencies is helpful for Taiwan to deal with complex disasters. And integrating agencies needs a complete law as a support. Taiwan is currently adopting a two-track national security and administrative system. In terms of the administrative system, although the government passed the Executive Yuan Homeland Security Three-in-One Joint Policy Conference in 2007 and worked with the Executive Yuan Counterterrorism Office to establish the Office of Homeland Security, the office is responsible for commanding and integrating complex disasters, which is beyond its capability. In terms of the national security system, NSC receives intelligence from the NSB and analyzes it. Then the NSC provides the president suggestions related to national security. However, the scale of the NSC is too small, its responsibility is too vague, and it places too much emphasis on secrecy, so it is hard for the NSC to deal with complex national security issues.¹⁷¹ At the same time, the NSB needs to analyze and integrate all the intelligence from all the agencies, and whether or not the current system can implement that is also debatable. Therefore, the policy makers and the executors need to put aside disputes of party preference and political interests and face current problems. The high-speed rail bombing in April 2003 reveals that the government over-emphasized dealing with disasters when they happen, but neglected the importance of prevention. Although there are some current related regulations, the related units cannot implement thoroughly. Some loopholes in government agencies also make people doubt whether the

¹⁷⁰ Zhiping Zhou, "The Introduction and Analysis of the Act of National Intelligence Work" (PhD diss., University of Soochow, 2006), 5.

¹⁷¹ Wenzheng Chen, "The Coordination and Integration Functions of National Security Council: The Comparison between Taiwan and the United States," 3.

intelligence units are well trained and professional enough to deal with certain situations, and whether they are politically neutral. It is a good opportunity for the Executive Yuan, Legislative Yuan, and other related ministries to review Taiwan's current counterterrorism mechanism.

VI. CONCLUSION AND RECOMMENDATIONS

Currently, anti-terrorism has become one of the world's major tasks for national security. Although Taiwan is not the main target of international terrorist organizations, it still cannot be ruled out as a potential terrorist hiding place or criminal activity "relay station." As for Taiwan, in order to strengthen its homeland security, some missions still need completion, such as supporting and participating in anti-terrorism, enhancing its counterterrorism capability, seeking integration with the international community against terrorism, developing bilateral and multilateral relations of cooperation, expanding international activities, and making efforts in international security and for its own interests.¹⁷² Since the 9/11 terrorist attack, Taiwan has made many efforts on anti-terrorism. Some of these efforts include executing the United Nations Security Council Resolution 1373-related matters, supporting international anti-terrorism actions, establishing the relevant anti-terrorism response unit, developing anti-terrorism laws and regulations, and providing the international community with humanitarian relief. Moreover, Taiwan has strengthened domestic ministries related to specific emergency response types and has actively promoted the signing of mutual legal assistance agreements or memoranda, and controlling the Foreign Ministry and border units' visa issuance, strengthening of international intelligence cooperation, grasping important members of terrorist organizations, integrating anti-terrorist intelligence information by the National Security Bureau, and creating a database of international terrorism and other anti-terrorism acts. All these measures are for the purpose of ensuring homeland security. Taiwan's unique geographic environment that has contributed to it enduring natural disasters make it necessary and urgent for Taiwan to integrate the existing Homeland Security Response System.

¹⁷² Zhongyong Zhang, "The Enlightenment of Homeland Security Operations after 9/11 to Taiwan Security," Cross-Strait Security and National Defense Seminar, Taiwan New Century Foundation, October 20, 2002. <http://www.taiwanncf.org.tw/news/news.htm>.

Our counterterrorism response mechanism is based on the Disaster Prevention and Response Act and is combined with National Defense Mobilization System, which refer to the U.S. Patriot Act and Japan's Terrorist Countermeasures Support Act to develop a draft of the Counterterrorism Law. After analyzing and comparing the two countries' current practices, and then viewing the mechanism in Taiwan, the findings and recommendations are summarized as below:

A. ESTABLISH COMPLETE CONSTITUTIONAL SYSTEM OF THE COUNTRY

Taiwan's government system is similar to France's Semi-Presidential system. After the 1997 constitutional amendment, Taiwan adopted the vote of no confidence and dissolution of the parliamentary mechanism; on the other hand, Taiwan also gives the president the power to appoint the head of Executive Yuan and the president of National Security Council without consent of the Legislative Yuan. Furthermore, Taiwan has adopted the two-track system, national security and administrative system, to combat terrorism. However, there is no consensus on how to identify the system of government. Due to the different political parties in power, the president belongs to the ruling party. When it is opposite to the majority party this leads to conflict among the government, Legislative Yuan, and opposition party. Therefore, whether or not the Legislative Yuan supports the president is directly related to the disaster response mechanism that was promoted by the Executive Yuan and NSA. After comparing the U.S. and Japanese command systems, we can tell that both the Cabinet system and the presidential system give great power to the commander-in-chief, and if necessary, the commander can skip the current mechanism and give orders directly. In the aspect of the administrative system, the president has the power to influence national security decision-making. In the exercise of executive power, the Executive Yuan is the highest administrative ministry. But the President has the power to depose the head of Executive Yuan, so the president is still influential under the semi-presidential system and Executive Yuan. As for the national security system, the National Security Council, in accordance with the Organic Law of the National Security Council, can provide a reference for the president to make major decisions for national security. However, the Constitution did not give too much

power to the president. Coupled with the low profile of the political culture, when dealing with national security and responding to counterterrorism, it is difficult to integrate among ministries.¹⁷³ But if the president emphasizes national security affairs more, then there will be a conflict when exercising the executive power. These issues are affecting the two-track system of the administrative and national security mechanism. In view of this, at all levels of government involved in the national security command mechanism, the role of the National Security implementation units and advisory units should be clear. Furthermore, a complete law should be established to improve the legal authority and to enhance integration, coordination, and operational functions, and to jointly promote the state's disaster response mechanism.

B. IMPROVE THE LEGAL FORMULATION AND REVISION

Terrorism has a significant impact on international security, and anti-terrorist efforts will be a long-term government activity. After 9/11, the United States developed a so-called Patriot Act, Japan also passed an Anti-terrorism Special Measures Law to strengthen the fight against terrorism. Taiwan's Ministry of Justice has currently drafted The Anti-Terrorism Act and the content is more focused on crisis management and recovery. But it is still inadequate for preventing crisis. A regulated law is the base of enforcement, which is an important part of a democratic country. Although Taiwan's administration and the national security system are in accordance with the draft anti-terrorism law to complete the current response mechanism, the draft, after all, has not been passed formally by the legislative authorities, and the legal system is still flawed. Compared to the Western democracies, because of the diversity of terrorists, the U.S., Japan, and Canada all passed anti-terrorism laws in order to effectively control terrorism. As for Taiwan, where terrorism has not yet been defined as a major threat to the country, it does not mean that a terrorist attack will not happen. So far, the draft anti-terrorism law between the government and the Legislative Yuan has not yet reached a consensus. After analyzing the Executive Yuan and the Legislative Yuan's version of the draft anti-terrorism law, we can tell that most of the existing legal norms in Taiwan's domestic law

¹⁷³ Wenzheng Chen, "The Coordination and Integration Functions of National Security Council," 17.

have been given. If Taiwan strengthens law enforcement just to reflect the widespread international action against terrorism, it may not match the real needs of the country, and will raise the human rights issue. Therefore, Taiwan should refer to the legal norms of the United States, Japan, and other advanced countries and view Taiwan's current regulations from the angle of "complex disasters." Taiwan should emphasize the command system's coordination, connection, and resource-sharing at all levels of the organization and consider whether it is necessary to set up a specific law in response to anti-terrorism. It is also important to consider the balance between national security and civil rights.

In terms of the National Security Act, the Executive Yuan has completed an amendment to the National Security Act in 2013, with a total of ten Articles, but the content is still partial to defense and military security.¹⁷⁴ Currently, all countries are facing not only the traditional security threat (defense, military, diplomacy), but also the non-traditional threat (terrorist attack, natural disasters, or complex disasters). America's Hurricane Katrina and the Fukushima nuclear disaster in Japan, reveal that the damage to national security, people's property, and lives due to climate change is far more catastrophic than terrorist attacks. Therefore, the definition of national security should be adjusted to address an "all disaster response" as the basis of national security policy planning, which is preparing Taiwan to have a comprehensive protection concept. Therefore, I recommend that the existing National Security Law should be re-examined. Moreover, Taiwan should use the angle of complex disaster to reset laws in order to improve the national security system.

C. INTEGRATE AND STRENGTHEN THE THREE-LEVEL GOVERNMENT CRISIS MANAGEMENT MECHANISM

After 9/11, the purpose of establishing the U.S. Department of Homeland Security was not only as a response to terrorism, but also as a way to integrate disaster management, border control, and transportation safety, etc.¹⁷⁵ The Department of Homeland Security emphasizes the integration of combating terrorism, enhancing the

¹⁷⁴ "National Security Law," Laws and Regulations Database of the Republic of China. <http://law.moj.gov.tw/LawClass/LawAll.aspx?PCode=A0030028>.

¹⁷⁵ Congressional Research Service, *Homeland Security Office: Issues and Options*, RL31421.

efficiency of organizations, and sharing resources. Japan also uses disaster prevention as the umbrella under which the mechanism for responding to all disasters, including natural disasters, resides. And the whole system is dominated by the Cabinet. From the experience of these two countries, we can see that future disasters are likely to be complex. When a disaster happens, it will inevitably involve a number of units; hence, the unit established only for the purpose of counterterrorism is not enough. Currently, Taiwan has established emergency mechanisms for different central government ministries. And the local governments also have mechanisms based on the Disaster Prevention and Protection Act, which combines civil defense, police, army, and civil society organizations to create a complete disaster response system. However, such a system was established only after a disaster, which reflects a lack of advance prevention and a lack of coordination and contacts on the part of central ministries and local guidance.

Taiwan's government changed the Executive Yuan's anti-terrorism office to the Office of Homeland Security on August 16, 2007, to strengthen the role of coordinating disaster, disaster prevention, and response functions, as well as the national mobilization and counterterrorism response mechanism. It also served as the Executive Yuan's three-in-one joint policy consolidation office. However, after the 2013 high-speed railway bombing, Taiwan realized that its Office of Homeland Security's function has not been carried out. There are only 11 staff members and they are not permanent dedicated personnel for the Office of Homeland Security. Moreover, the budget has decreased gradually. The office also lacks coordination and there is no advanced planning for communication. In addition to these logistical and operational challenges, the definition of terrorism varies from central government to local government; therefore, there is no detailed planning between units and no one specific unit to deal with terrorist attacks. These problems still need to be solved by government agencies and national security-related units. Meanwhile, the government must address public opinion and perceptions. People doubt that Taiwan can handle complex disasters under the current response mechanism. Therefore, I would suggest that the Office of Homeland Security be the core to plan, integrate, control, and manage natural disasters, and complex disasters.

Furthermore, the Executive Yuan should coordinate the Counterterrorism Operation and Policy Conference, the Central Disasters Response Conference, and other types of national security conferences in order to increase the connection and information sharing between agencies. On the other hand, if the Office of Homeland Security can remain neutral in the face of party politics, it will become a complete crisis response mechanism. It will also make the response mechanism become a proactive and preventive mechanism rather than a reactive mechanism that only springs to action when a disaster occurs.

D. ENHANCE INTELLIGENCE COLLECTION AND EARLY WARNING MECHANISM

Currently, Taiwan's counterterrorism intelligence gathering is the responsibility of the National Security Bureau. All the other intelligence units collect terrorist-related intelligence and send this information to the NSB, which distributes it to the Intelligence Operation Divisions for further analysis. The analysis results will be provided to the NSC for reference in policy making. The NSC is responsible for integrating and analyzing the intelligence collected by different units. The intelligence has generally been more about national defense and military issues. But in recent years, in order to deal with Taiwan's severe weather and the possible threat of international terrorists, Taiwan has adopted the U.S. model to expand the NSC structure, and to strengthen its intelligence analysis and research capability. As for the NSB, it is responsible for integrating intelligence from all units and intelligence related to national security. Although there are six departments responsible for intelligence analysis, there is no one specific unit for analyzing intelligence. If Taiwan can establish one unit for integration, responsible for analyzing intelligence and providing it to NSC for reference, then it will be more efficient and functional.

In addition, through the current Counterterrorism Framework and Organizations Operational Mechanisms, the NSB can gain intelligence through cooperating with the international community. The Office of Homeland Security can gather information about natural disasters and major infrastructure through nine response teams of the Executive Yuan. Although each unit of the Office of Homeland Security is equipped with its own personnel, they are too few and not permanent, which causes people to doubt that office's

professional capability and function. Also, in recent years, the major disasters Taiwan has endured have been both man-made and natural, and the disasters involved different units. The impacts of the natural disasters have been more severe than those of a terrorist attack. The Counterterrorism Framework and Organizations Operational Mechanisms are only related to NSC's intelligence sharing and analysis, but have nothing to do with NSB. This mechanism is not helpful for Taiwan in dealing with future complex disasters.

In order to improve this situation, I suggest the following methods: first, enhance the coordination and contact mechanism between the NSB and the nine response centers to establish a platform for intelligence sharing. Use the Central Disasters Response Conference as the main body and combine the Counterterrorism Information and Policy Conference and National Mobilization Conference to enhance the efficiency of emergency response. Second, change the Executive Yuan Department of Homeland Security to a full-time group and group it in accordance to the types of the nine response centers in order to facilitate effective information for reference use by the NSC. Third, the National Security Council on the counterterrorism response mechanism is a national security policy advisory body for the president. After obtaining intelligence related to the national security, besides notifying the related administrative units, the NSC also needs to maintain contact with the Office of Homeland Security and then research and analyze the intelligence before reporting it to the president as reference for decision making. For this reason, the current NSC grouping makes it difficult to analyze the information provided by the NSA and the Office of Homeland Security, Executive Yuan. I recommend expanding NSC's professional advisers, many of whom have the capability to judge and analyze intelligence. In addition to the two-track system of administration and national security, a clear definition of endangering national security is needed. If the aforementioned problems can be improved, the crisis management mechanism will be improved. When an emergency occurs, accurate information can be provided efficiently to the president for reference.¹⁷⁶

¹⁷⁶ Jinqiang Su, "National Security and Crisis Management Mechanisms," 7–17.

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