

# EXECUTIVE ORDERS

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## **Executive Order No. 148: Declaring an Emergency in Order to Appoint New Jersey and Connecticut Police Officers as Railroad Police Officers to Provide Enhanced Security on Commuter Trains, Buses, and Ferries.**

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

WHEREAS, New York State has been subject to terrorist attacks, including the World Trade Center bombing in 1993; the attacks on the World Trade Center on September 11, 2001; the Brooklyn Bridge Plot in 2003; the Financial Centers Plot in 2004 targeting the New York Stock Exchange and Citigroup Center in New York City and the Prudential Plaza in Newark, New Jersey; the 2007 plot to blow up jet fuel supply tanks and the pipeline that fed the tanks located underneath the John F. Kennedy International Airport; the May 2009 plot to bomb a Bronx synagogue and the Stewart Air National Guard Base; the failed plot of Faisal Shahzad in May 2010; the May 2011 plot by Ahmed Ferhani and Mohamed Mamdouh to bomb New York City synagogues, during which Ferhani and Mamdouh discussed additional targets in New York City, including churches and the Empire State Building; the October 2012 foiled attempt by Quazi Mohammad Rezwanaul Ahsan Nafis to detonate a 1,000 pound car bomb outside the Federal Reserve Bank of New York in Lower Manhattan; the planned attacks by Quazi and his brother in November 2012 directed at landmarks in New York; and the 2014 indictment of Mufid Elfgeeh, a Rochester resident who is alleged to have provided material support to the Islamic State (often referred to as ISIS or ISIL), all of which demonstrate that terrorists continue to pose a persistent threat to the State of New York; and

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

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

WHEREAS, on September 24, 2014, in response to heightened concerns of terrorist activities, New York State and New Jersey formalized a counterterrorism partnership through a Memorandum of

Understanding whereby additional security measures and protocols were agreed upon in an effort to bolster the security posture of the Bi-State Region; and

WHEREAS, the Islamic State continues to use social media sites to repeatedly call on sympathizers to carry out attacks within the United States and Western countries in any manner or way; and

WHEREAS, 130 people were murdered and 352 people were injured in multiple, simultaneous terrorist attacks in Paris, France on November 13, 2015; and at least 20 people were murdered in a November 20, 2015 terrorist attack in Bamako, Mali; and

WHEREAS, the Islamic State recently released a propaganda video containing images of New York City purportedly under attack; and

WHEREAS, various terrorist groups continue to issue threats in an attempt to motivate homegrown terror attacks in the United States; and

WHEREAS, 14 people were murdered and 21 people were injured in a mass shooting in San Bernardino, California on December 2, 2015; and

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

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

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

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

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

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

WHEREAS, if such circumstances and limitations were applied to sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey who are serving as railroad police officers from 12:01 A.M. on December 9, 2015 through 12:01 A.M. on January 2, 2016, such application would prevent, hinder and delay action necessary to respond to a terrorist attack or a threat thereof; and

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

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby find that a disaster may be imminent to which the affected local governments are unable to respond adequately without assistance. Therefore, pursuant to the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, I hereby declare a State Disaster Emergency effective December 9, 2015; and

FURTHER, pursuant to the authority vested in me by Section 29-a of the Executive Law to temporarily suspend and modify specific provisions of any statute, local law, ordinance, order, rule or regulation, or parts thereof, of any agency during a State Disaster Emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the disaster, I hereby temporarily suspend and modify, for the period from 12:01 AM on December 9, 2015 until 12:01 AM on January 2, 2016, the following laws for purposes of appointment of sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey as Railroad Police; and

FURTHER, Subdivision 1 of Section 88 of the Railroad Law insofar as it requires the Superintendent of the State Police to appoint railroad police officers only upon the application of a corporation, express company, or steamboat company, is modified to the extent necessary to allow the Governor to appoint, and I do hereby appoint, sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey as railroad police officers, and to include all rail and bus facilities and property owned, operated or in the custody or control of the Port Authority of New York and New Jersey or its subsidiaries, the Metropolitan Transit Authority or its subsidiaries, New Jersey Transit or its subsidiaries, and ferries certified to carry passengers to and from New York State; and Subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16 and 17 of Section 88 of the Railroad Law, as necessary to effectuate this Order; and

FURTHER, this Order shall take effect at 12:01 AM on December 9, 2015 and shall remain in effect until 12:01 AM on January 2, 2016, and may be extended, with further notice consistent with section 29-a of the Executive Law, upon consideration of a continued heightened alert of terrorist attack, at which time the suspension of laws may be extended upon consideration of a continued heightened alert of terrorist attack.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany, this eighth day of December in the year two thousand fifteen.

*BY THE GOVERNOR*  
/S/ Andrew M. Cuomo  
/s/ William J. Mulrow  
*Secretary to the Governor*