

Extensive and Systematic Surveillance and Profiling of Muslims: Japan's Violation of the International Convention on the Elimination of All Forms of Racial Discrimination

NGO Report Submitted before the United Nations Committee on the Elimination of
Racial Discrimination for its review of Japan during the Committee's 85th Session

July 2014

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The Attorney Team for Victims of Illegal Investigation against Muslims (“Attorney Team”) was established in response to leak of internal investigation of Japanese police on the Internet that occurred in October 2010. The leak revealed that the police have collected and stored detailed personal information of Muslims and their family members in Japan through extensive and continuous surveillance and monitoring of mosques and Muslim communities. The Attorney Team have conducted various activities including filing law suits against the police for the purpose of (i) pursuing the problems of the police's investigation, and (ii) making the police authorities acknowledge the facts about illegal investigation against Muslims and information leakage and take appropriate measures. In our view, the real problem is an investigation policy hostile to the entire Muslim communities in Japan, and we have been working to advocate for Muslim victims and prevent the surveillance and leakage of information.

1. Introduction and Issue Summary

After the 9/11 attacks, so-called terrorist profiling has become an increasingly significant components of states' counter-terrorism efforts.¹ Various international or regional human rights organisations indicated that terrorist profiling practices based on distinctions according to a person's presumed race, ethnicity, national origin or religion raise concern with regard to a number of human rights guarantees including the right to privacy and the principle of non-discrimination.²

A massive information leak containing sensitive personal information through the Internet in October 2010 revealed that Japanese police have conducted systematic and extensive surveillance and information gathering activities targeting Muslims. Samples of leaked documents and their English translation are attached as **Appendix 1** to **Appendix9**.

The Attorney Team for Victims of Illegal Investigation against Muslims ("Attorney Team") have conducted various activities including filing suit against the Japanese police for compensation in order to advocate for Muslim victims and prevent illegal investigation against Muslims.

In January 2014, the Tokyo District Court issued a judgment rubber-stamping the extensive and systematic surveillance and information gathering activities targeting Muslims only as a counterterrorism measure. English translation of the judgment is attached as **Appendix10**.

Although investigation using profiling based on religion violates the international human rights obligations enshrined in the International Covenant on Civil and Political Rights ("ICCPR"), especially Article 2 (right to non-discrimination), 17 (right to privacy), 18 (freedom of religion), and 26 (right to equal protection),³ Japanese government did not mention anything about systematic and extensive surveillance and

¹UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Martin M'jid Scheinin, A/HRC/4/26, January 29, 2007, ¶32.

²See, for example, *Id*, ¶40. UN Human Rights Committee showed concerns about the practice of racial profiling and surveillance by law enforcement officials targeting certain ethnic minorities, and the surveillance of Muslims undertaken by the Federal Bureau of Investigation (FBI) and the New York Police Department (NYPD). Human Rights Committee, *Concluding Observations. United States of America*: CCPR/C/USA/CO/4, April 23 2014 at ¶7.

³ UN Human Rights Committee showed concern about reports on widespread surveillance of Muslims by law enforcement officials in Japan. See Human Rights Committee, *Concluding Observations (Advance Unedited Version), Japan*, July 24 2014, CCPR/C/JPN/CO/6 at ¶20. See also Attorney Team for Victims of Illegal Investigation against Muslims, *Extensive and Systematic Surveillance and Profiling of Muslims: Japan's Violation of the International Convention on Civil and Political*, June 2014, shadow report submitted to the UN Human Rights Committee.

information gathering activities targeting Muslims in its report and other materials to the UN Human Rights Committee (“Human Rights Committee”).

In conducting surveillance and information gathering activities against Muslims, the Police have used nationality of OIC (Organisation of the Islamic Conference) member countries as the first criteria. If a person is from OIC member countries, the person will be the target of surveillance without any connection to wrongdoing. Although surveillance based on national origin violated the Article 2 and 5(d) of the International Convention on the Elimination of All Forms of Racial Discrimination (“ICERD”), Japanese government did not mention anything about systematic and extensive surveillance and information gathering activities targeting Muslims and in its report and other materials to the the UN Committee on the Elimination of Racial Discrimination (“CERD Committee”).

Even after the information leak in October 2010, the police are likely to have continued a systematic and extensive surveillance and information gathering activities of Muslims and people from OIC member countries. Despite its violation of the ICCPR and the ICERD, the Japanese government has not taken any measures to prevent human rights violation of Muslims and people from OIC member countries. Also, the Japanese court in its recent judgment condones the police’s investigation activities violating the international human rights standard.

This shadow provides information about the extensive and systematic surveillance activities and profiling practices targeting Muslims and people from OIC member countries revealed from the leaked materials. It also provides information about the judgment issued by the Tokyo District Court on January 15, 2014, condoning the police investigation.

The Attorney Team expect the CERD Committee to show concern about the surveillance and profiling practices targeting Muslims and people from OIC member countries, and to recommend that Japanese government should take measures to comply with the international human rights standard including the termination of surveillance and profiling practices.

2. Factual Background

(1) Leak of Massive Personal Information

On or around 28 October 2010, 114 articles of data were posted on the Internet. In addition to numerous data regarding countermeasures against international terrorism (see **Appendix1** to **Appendix9**), the Data contained A4- sized pages resembling résumés (hereinafter referred to as “Résumés-like Page,” see **Appendix7** for a sample) with the nationality, birthplace, name, gender, date of birth (age), current address, place of employment and vehicle for each of the plaintiffs. It also included information such as their date of entry, passport number and issue date, residence status, address at home country, duration of residence, registry date, municipality of residence and registration number listed under the heading “Entry and Residence Related”; their history regarding residence address, schooling and employment in Japan under “History of Addresses, Schooling and Employment”; as well as e.g. height, build, and the presence or absence of hair, beard, or eyeglasses under “Physical Characteristics”; names, dates of birth, employers and addresses of family members, under “Familial Relationships and Acquaintances”; the name of a mosque a person attended, under “Comings and Goings at Mosque”; and for some, the type, date obtained and number for their licenses under “Licenses”; date of arrest, offence, station of arrest and outcome under “Criminal Information”; as well as sections titled “Suspicious”, “Response Status and Policy”, “Affiliated Organisations”, “Status, Positions and Roles etc.”, “Visited and Frequented Locations”, and “Summary of Behavioural Patterns”. Some Résumés-like Pages contain religiously sensitive information such as participation in religious ceremonies or instructional activities (see page 5 of the **Appendix10**).

For some Muslims, instead of Résumés-like Page, other type of documents were made, in which nationality, name, date of birth, passport number, residence status, employer and its address, place of birth, address at home country, address in Japan, mobile and home telephone numbers, family, entry and departure history in Japan and accessed mosques were recorded as “1 Particulars of Identity”, together with a specific and detailed account of exchanges and friendship with a particular Muslim individual under “2 Information on Suspicious.” See **Appendix8** for a sample. Religiously sensitive information such as passion for missionary activities was in the document for some Muslims (page 6 of the **Appendix10**).

In addition, some of the information gathered by the police is shared by foreign agencies such as the FBI in the United States (see **Appendix9**).

(2) Police’s Surveillance and Information Gathering Activities Targeting Muslims and People from OIC Member Countries

Leaked articles revealed that the police department in Japan, such as the Metropolitan Police Department, which serves as the police force for metropolitan Tokyo, had systematically and extensively monitored Muslims in Japan under the guidance of the National Police Agency, and collected and stored personal data obtained from such monitoring. In conducting surveillance and information gathering activities against Muslims, the Police have used nationality of OIC member countries as the first criteria. If a person is from OIC member countries, the person will be the target of surveillance without any connection to wrongdoing (see **Appendix1** to **Appendix3**).

According to the leaked articles, the Tokyo Metropolitan Police Department and the National Police Agency had, as of 31 May 2008, assessed and digitalized the personal information of “roughly 12,677 individuals” equaling “roughly 89% of the 14,254 foreign nationals from Muslim countries registered in Tokyo”. And later, by the Hokkaido Toya Lake Summit convened July of that year, the same agencies had “profiled roughly 72,000 individuals from OIC (Organisation of the Islamic Conference) countries (assessment rate of 98%).” See **Appendix3**.

The Metropolitan Police Department and the National Police Agency, since June 2008, as a countermeasure against international terrorism accompanying the Hokkaido Lake Toya Summit, stationed agents in mosques all around Japan with the mission of “detecting suspicious activities of mosque attendants”. The stationed agents detected and observed new arrivals and suspicious individuals at mosques. Then, they followed individuals to their homes, got their names and addresses from alien resident registration, and compiled them into a database (see **Appendix4** and **Appendix5**). Extensive and systematic surveillance of mosques continued after the Summit. In addition to the mosque surveillance, the Metropolitan Police Department and the National Police Agency monitored various Muslim communities, including Islam-related non-profit organisations, halal shops, Islam-related restaurants, and Islam-related corporations, and systematically gathered information about these organisations. The gathered information includes the location of the organisations, names of representatives and officials, the amount of annual fee, financial situation including bank account information, name of account holders, balance of the account, and income and expenditure. Based on the information, the police created database of Islamic communities detailing the number of people coming from each OIC member countries (see **Appendix6**). Also, surveillance cameras were set up around mosques and Islamic-related organisations.

Further, the Metropolitan Police Department and the National Police Agency, without any legal ground, (i) established a relationship with major automobile rental dealerships headquartered in Tokyo whereby they could receive user information without a referral document and had that information submitted; (ii) had hotels reinforce their retention of foreign passport photocopies; (iii) acquired the history of paycheck deposits for staff working at the Iranian embassy, from banks; and (iv) obtained a roster of foreign students from the administrators at some universities, assessed the personal information of students from Muslim countries, and collected information on Muslims and Islamic-related organisations extensively.

Targets of the surveillance and information gathering are selected solely because they are Muslims or from OIC member countries. As long as they are Muslims or from OIC member countries, the police collected personal information automatically and extensively regardless of criminal records, suspicion of crimes, probability of committing crimes, or affiliation with criminal groups (see **Appendix1** to **Appendix3**).

Importantly, in none of the targeted individuals did the surveillance and information gathering lead to detection of terrorism-related offences, according to leaked articles and other publicly available information.

(3) Actions of the Metropolitan Police Department and the National Police Agency

The Metropolitan Police Department and the National Police Agency recognized the leakage and commenced investigations. In reports about investigations, the Metropolitan Police Department and the National Police Agency acknowledged the fact that the data contain information with a high probability of having been handled by a member of the police force, but do not disclose specifics of how the data was removed. Also, during court proceedings, the Metropolitan Police Department and the National Police Agency did not acknowledge that the leaked data were those collected stored by the police. Further, neither of them has made apology to each Muslim victim.

It is not clear whether systematic surveillance activities targeting Muslims and people from OIC member countries continue after the leakage, because the police have not disclosed information about the surveillance. However, given that the Attorney Team have received reports from Muslims to the effect that mosques are surveyed, they are followed by detectives, they are frequently stopped and searched by the police, it is highly likely that the systematic and extensive surveillance of Muslims and people from OIC countries continues until now.

(4) The Judgment of the Tokyo District Court

A group of 17 Muslims victims, which include those from OIC countries such as Iran, Morocco, Algeria, and Tunisia, filed suit against the Metropolitan Police Department and the National Police Agency, demanding compensation for violation of various constitutional and statutory rights, including privacy and religious freedom. On January 15 2014, the Tokyo district court issued judgment. See **Appendix10** for English Translation.

The court ordered the Tokyo Metropolitan Government, which is in charge of the Metropolitan Police Department, to pay damages to the plaintiffs for violating their privacy by leaking their personal data. The court ruled that the data were created by police, held by the Metropolitan Police Department's Public Security Bureau and leaked by some insider, and that the Tokyo Metropolitan Government was negligent in properly supervising the data. The court, however, also ruled that the Metropolitan Police Department's surveillance targeting Muslims and collecting and storing personal data collected thereof were legal and did not violate constitutional rights of the plaintiffs. Nor did it acknowledge any liability of the National Police Agency, which seems to supervise the surveillance program all over Japan.

The court held that the police's information gathering activities were "necessary and inevitable measures for the prevention of international terrorism", and did not violate Article 14 (equal protection) and Article 20 (freedom of religion) of the Japanese Constitution because (i) mosque monitoring activities and other information gathering activities should be regarded as necessary activities for the police, (ii) the police's mosque monitoring and information gathering activities are not conducted "with the intention of meddling in the spiritual and religious aspects of Muslims", and (iii) "effects on the freedom of religion, if any, did nothing more than invite a sense of repulsion toward the presence of police officers in and around mosques." (page 20-21, and 22-23 of **Appendix10**) Similarly, the court held that the police's surveillance and information gathering activities did not interfere with the privacy rights of victims, because they were "necessary and inevitable from the point of view of preventing international terrorism". (page 25 of **Appendix10**)

The logic of the Tokyo District Court fell far behind international human rights standards. The Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism submitted to the Human Rights Council on January 29, 2007 ("The Special Rapporteur Report"), noted that data-mining initiatives based on broad terrorist profiles that include group characteristics such as religion or national origin may constitute a disproportionate and

thus arbitrary interference with the right to privacy.⁴ The report also indicated that profiling practices based on religion or national origin used as a means of countering terrorism regularly fail to meet demanding proportionality requirement, and does not comply with the principle of non-discrimination under Article 2 and 26 of the ICCPR.⁵

In addition, since the police's surveillance and information gathering activities are based on nationality of OIC member countries, the surveillance constitutes a racial discrimination based on national origin, and violates the Article 2 and 5(d) of the ICERD.

The judgment of the Tokyo District Court did not consider the issue of the police's surveillance and information gathering from the perspective of international human rights law, including the ICCPR and the ICERD.

Both the plaintiffs and defendants of the case appealed, and the case is pending in the Tokyo Appellate Court as of July 25 2014.

3. Legal Framework

(1) Related ICERD Articles and the CERD Committee General Recommendations

Articles 2 and Article 5 (d) of the ICERD are most relevant to the issues of systematic surveillance based on national origin.

According to General Recommendations No 30 of the ICERD, state parties shall "Review and revise legislation, as appropriate, in order to guarantee that such legislation is in full compliance with the Convention, in particular regarding the effective enjoyment of the rights mentioned in article 5, without discrimination".⁶ Also, state parties shall "ensure that any measures taken in the fight against terrorism do not discriminate, in purpose or effect, on the grounds of race, colour, descent, or national or ethnic origin and that non-citizens are not subjected to racial or ethnic profiling or stereotyping".⁷

(2) Positions of the UN Human Rights Committee

In its 2014 Concluding Observations, the Human Rights Committee expressed concern "about reports on widespread surveillance of Muslims by law enforcement officials",⁸ and recommended the Japanese government to take the following actions:⁹

⁴ Human Rights Council, *supra* note 1, ¶ 38.

⁵ *See, id.*, ¶ 34 and 40.

⁶ CERD Committee General Recommendations 30 at ¶6

⁷ *Id.* at ¶10.

⁸ Human Rights Committee, *Concluding Observations (Advance Unedited Version), Japan*, July 24 2014,

- (a) Train law enforcement personnel on cultural awareness and the inadmissibility of racial profiling, including the widespread surveillance of Muslims by law enforcement officials;
- (b) Ensure that affected persons have access to effective remedies in cases of abuse.

(3) The Surveillance and Information Gathering Activities Violate Article 2 and 5 (d) of the ICERD

The police conducted surveillance, including monitoring of mosques, against people from OIC member countries solely based on their national origin. This practice has an enormous chilling effect on the exercise of freedom of religion for people from OIC member countries, and violates their privacy rights.

In addition, the police have conducted systematic and blanket surveillance against people from OIC member countries without any relation to terrorism related crimes or the specific risk of terrorism. This investigation will stereotype people from OIC countries as potential terrorist sleepers or collaborators for terrorists.

Thus, the police surveillance and information gathering activities violate Article 2 and 5(d) of the ICERD.

4. Recommended Questions

- Has the Japanese government provided any compensation against Muslims whose sensitive personal information was leaked?
- Has the Japanese government provided a consultation service for Muslim victims?
- Has the Japanese government provided any procedures for correcting or deleting personal information of Muslims from its database in response to requests from Muslim victims?
- When the police gathered information based on Muslims from banks, hotels or other organisations, did the police take any measures not to promulgate discrimination against Muslims?
- After leak of personal information of Muslims, do the police still continue to conduct systematic and extensive surveillance against Muslims?
- Do the police still continue to gather information of Muslims from various organisations such as major automobile rental dealerships, hotels, Internet providers, universities and banks?

CCPR/C/JPN/CO/6 at ¶20.

⁹ *Id.*

- Do the police still continue to set up surveillance cameras around Islam-related institutions including mosques?
- What specific efforts have been made to review, modify or end surveillance and profiling based on Islamic or nationality of OIC member countries? For example, is there any guideline or order inside the police department not to disseminate discrimination against Muslims? Are there other examples?
- What steps will the Japanese government take to review, modify or end surveillance and profiling based on Muslims or nationality of OIC member countries?
- Do police still store all of the personal information collected by surveillance of Muslims and people from OIC member countries?
- How does the police analyse if a person has any relationship with terrorism?
- Does the government discard the personal information if it turns out that a specific individual has no relationship with terrorism?

5. Suggested Recommendations

- Find that the police's systematic and expansive surveillance targeting Muslims and people from OIC member countries violates of the Japanese government's obligations under the ICERD.
- Recommend that all police departments of the Japanese government terminate systematic and expansive surveillance of Muslims and people from OIC member countries.
- Recommend that the police establish guidelines prohibiting profiling based on religion and national origin, and provide anti-profiling trainings for law enforcement.
- Recommend that the Japanese courts comply with the international human rights law so that individuals whose rights are violated by the police can seek redress in the court system.

List of Appendix:

- 1-1. Document titled “Outline for Reinforcing Reality Assessments” (Japanese)
- 1-2. English translation of a document titled “Outline for Reinforcing Reality Assessments”
- 2-1. Document titled “19.12.18 Public Security • Foreign Affairs Chief etc Meeting Instructions (Draft)” (Japanese)
- 2-2. English translation of a document titled “19.12.18 Public Security • Foreign Affairs Chief etc Meeting Instructions (Draft)” (Excerpt)
- 3-1. Document titled “Summary of the Meeting with Kanto Region International Terrorism Assistant Section Chief (January 9: National Police Agency)” (Japanese)
- 3-2. English translation of a document titled “Summary of the Meeting with Kanto Region International Terrorism Assistant Section Chief (January 9: National Police Agency)” (Excerpt)
- 4-1. Document titled “Mosque Monitoring System after June 23rd” (Japanese)
- 4-2. English translation of a document titled “Mosque Monitoring System after June 23rd” (Excerpt)
- 5-1. Document titled “Status of Identification Operation” (Japanese)
- 5-2. English translation of a document titled “Status of Identification Operation” (Excerpt)
- 6-1. Document titled “Current Situation of Muslim Communities” (Japanese)
- 6-2. English translation of a document titled “Current Situation of Muslim Communities” (Excerpt)
- 7-1. A sample of Résumés-like page (Japanese)
- 7-2. English translation of a sample of Résumés-like page
- 8-1. Document describing “1 Particulars of Identity” and “2 Information on Suspicious” (Japanese)
- 8-2. English translation of a document describing “1 Particulars of Identity” and “2 Information on Suspicious”
9. Document indicating information sharing with the FBI
10. English translation of the Tokyo District Court’s Judgment on January 15 2014

取 扱 注 意

平成 19 年 9 月 10 日
平成 20 年 7 月 9 日まで保存

実態把握強化推進上の要点

1 実態把握の対象

イスラム諸国会議機構（OIC）の国籍を有する者及びその他の国籍を有するムスリム。
※ ムスリムとはイスラム教徒をいう。OIC 加盟国 56 か国 1 地域の国籍を有する者の把握を最重点として、把握した場合は全て公安係に報告すること。その他の国籍を有するムスリムとは、OIC 加盟国以外の国籍を有する者で、言動、服装等からムスリムと認められる者。
なお、ムスリムか否かの判別が困難な場合は、活動報告書等により公安係に報告し、判断を任せること。

2 報告要領

(1) 必要事項

① 国籍

※ 中国は「新疆ウイグル自治区」、フィリピンは「ミンダナオ島」、タイは「ヤラー県」、「ナラーティワート県」、「バッターニ県」出身者に限定します。

② 氏名

③ 生年月日

④ 住所（管内の新規対象国人等は、必ず居住確認の有無を記載すること）

⑤ 報告者の係、官職、氏名、職番、入手の端緒（巡邏、職質、交通取締りなど）

(2) 報告先

上記必要事項を活動報告書又は各署で定められた書式に簡記し、公安係に報告。
なお、活動報告書の件名は「実態把握について」とすること。

3 巡回連絡推進上の具体的着眼点

(1) 安価なアパートに的を絞る

対象の 8 割以上が、集合住宅（寮を含む。）に居住している。民族的特性等の理由から、短期間での転居を繰り返す傾向があるので、巡回連絡カードが提出されていても必ず人定を確認すること。

(2) 被働先に対する巡回連絡

ア 外国人を雇用している企業・会社

外国人を雇用または研修生として受け入れる企業等では、外国人が頻繁に入れ替わることが多いので、定期的に訪問すること。また、企業が賃貸物件を外国人の社員寮としている場合もあるので、社員寮の有無に関しても漏れなく聴取する。

イ イスラム諸国出身者が経営する店舗

イスラム諸国出身者は、中古車業者、貿易会社、絨毯業者、レストラン等を経営し、同国出身の従業員を稼働させていることが多い。また、同国人の一時滞在場所となっている場合もあるので、既把握の店舗であっても、まめに立ち寄り、補充カードの作成（補正）を依頼すること。

なお、カレー店や居酒屋チェーン店などの飲食店においてイスラム諸国出身者の稼働を数多く確認していることから、漏らさず巡回連絡を実施すること。

ウ 社員寮（町工場、土建会社、新聞店等）

必ずしも社長や所長との面接にこだわることなく、実際に社員等の管理を担当している者と面接し、補充カードの作成を依頼すること。また、防犯指導を兼ねて、可能であれば定期的に訪問すること。

(3) 学生寮等に対する巡回連絡

個人情報保護を理由に、学生寮や学生会館等に対する巡回連絡を拒否された場合は公安係に報告し指示を仰ぐこと。また、居住者の入れ替えが頻繁であることから、定期的に実施すること。

4 巡回連絡推進上の留意点

(1) 宗教に関する言動は慎む。

(2) 外国人の狙い撃ちと思われないよう、言動や手法には留意する。特に警ら中、外国人だという理由だけで、声かけ、職務質問を行い、人定事項を確認することのないように注意する。

(3) 昼間帯は不在が多いので、幹部承認の元で、夜間・休日に重点的に実施する。

(4) 名義や表記は日本人配偶者になっているケースもあるのでよく確認する。

[Appendix1-2] Document Titled “Outline for Reinforcing Reality Assessments”

Confidential

September 10 2007
Keep Until July 9 2008

Outline for Reinforcing Reality Assessments

1. Targets of Reality Assessments

Muslims holding the nationality of countries of Organization of the Islamic Conference (OIC) and other nationalities.

※ Muslims means followers of Islam. Most important assessments are about those who hold the nationality of 56 member countries and 1 member territory of OIC, and all assessment information about them should be reported to Public Security Bureau. Muslims holding other nationality means those who hold the nationality of non-OIC countries, and are considered Muslims based on their behavioral patterns, clothes, etc.

In case it is difficult to judge if a person is a Muslim, report to the Public Security Bureau by activities report, etc and leave the decision up to the bureau.

2. Matters to be reported

(1) Necessary Matters

① Nationality

※China is only “Xinjiang Uygur Autonomous Region”, Philippine is only “Mindanao”, Thailand is only “Yala Province,” “Narathiwat Province,” and “Pattani Province.”

② Name

③ Date of Birth

④ Address (For new residents of target countries, make sure that they actually live at the address)

⑤ Unit, Position, Name, Job Number of Reporter, and Origin of Information (Patrol, Stop-and-Search, Traffic Inspection)

(2) Report Destination

Concisely describe the above necessary matters in activities reports or forms designed by each police office, and report it to the Public Security Bureau. Title of activities reports should be “On Reality Assessments.”

3. Specific Focuses in Promoting Patrolling and Reporting

(1) Focus on Cheap Apartments

More than 80 % of the targets live in collective housing, including dormitories. Because of ethnic characteristics etc, targets tend to change residence frequently in a short period of time, so make sure to check personal identification even if patrolling and reporting cares are already submitted.

(2) Patrolling to Working Places

a Companies Employing Foreigners

Regularly visit companies those employ foreigners or accept foreign trainees, because foreigners are switched frequently. Also, ask whether companies have dormitories for employees, because they often rent apartments and use them as dorms.

b Stores Operated by Those from Islamic Countries

Many of those from Islamic countries operate used car dealerships, trading companies, carpet companies, or restaurants, etc, and employ those from Islamic countries. Also, these companies often serve as transient places for those from Islamic countries, thus visit these places frequently and ask them to make or revise patrolling cards.

c Company Dormitories (small factory, construction company, newspaper shop, etc.)

Don't always have to interview presidents or director of companies, and interview those in charge human affairs and ask them to revise cards. Also, if possible, regularly visit company dorms for guidance of security.

(3) Patrolling to Student Dormitories, etc.

If patrolling to student dorms and students union building is rejected due to protection of personal information, report to the Public Security Bureau and seek their guidance. Also, patrol frequently, because residents are frequently replaced.

4. Notes in Promoting Patrolling Reporting

(1) Be careful about activities relating to religion.

(2) Be careful about conduct and methods of [patrolling] so that people may not think foreigners are targeted. Especially, during patrolling, do not stop and search or check personal identification merely because they are foreigners.

(3) Because [targets] are absent during daytime, so conduct assessment [activities] mainly during nighttime or weekends.

(4) Be careful about cases where a Japanese spouse's name is used as a nominal name or spelling.

19. 12. 18 署公安・外事担当課長等会議指示（案）

1 はじめに

北海道洞爺湖サミットまで、いよいよ半年、さらに、最も早い閣僚級会合である開発相会合までは3か月余りとなった。サミット対策も本格的に取り組んでいただくことになるが、今一度課長、代理の皆さんに確認していただきたいのは、国際テロ対策業務が担当者任せになっていないか、ということ。

言うまでもなく、今回のサミットの新たな、かつ、おそらく最大の脅威は国際テロである。しかし、皆さんの中には、まだまだ「自分は極左担当（又は総務担当、右翼担当）で飯を食ってきたし、外事は担当に任せておけばいい」「国際テロ対策業務はカタカナが多くて苦手だ」「国際テロなんて日本で（又は自分の管内で）起こるはずがない」というように、意識改革ができていない方もおられるのではないかと懸念している。幹部がそうした姿勢を見せてしまうと、部下は敏感にそれを感じ取り、幹部が顔を向けている方向を伺いながら仕事をするようになってしまう。毎回の重目会議で申し上げているとおり、必ずしも管内の重目施設の有無に関係なく、代理等担当幹部の取組み姿勢がよい署は実績を上げている。

過去、日本は、アル・カーイダ幹部から、英国、スペイン、豪国、イタリアなどとともにテロの標的として名指しされ、このうち、英国、スペインでは実際にテロが発生し、豪国、イタリアではイスラム過激派によるテロ計画が摘発されている。さらに、我が国でも、米国により拘束されたアル・カーイダ幹部が、実際、東京で在京米大に対するテロを計画していたことが明らかになっている。こうした中で今回のサミットを迎えるのであり、限られた捜査力をどのように配分するか、幹部として改めて検討していただきたい。

2 対策

次に運営重点に沿って、かつ、ポイントを絞って対策について説明。

(1) イスラム・コミュニティの実態把握

ア 他部門との連携による対象国人等の居住実態の把握

仮に海外からテロリストが我が国に入学してテロの実行を企図するならば、ほぼ間違いなく我が国に存在するイスラム・コミュニティの支援を必要とするはずであり、また、最近のテロ事件をみると、移民やその二世等、既にその国に定着した者がテロを敢行していることにかんがみても、平素から、管内に所在するイスラム・コミュニティを把握しておく必要がある。

こうしたことから、現在、各署においては、鋭意居住実態の把握を推進していただいているが、今後は各署への作業依頼が増加し、専務系の業務負担が増大することが予想されることから、特に地域系の巡回連絡を始めとする、他部門の執行務を通じての実態把握の推進をお願いしたい。その意味でも、現在実施しているポイント制による特別表彰をテコに、サミットまで挙署一体となった取り組みを恒常的に推進していただきたい。

なお、居住実態の把握は対象国人を優先的に行うこととなるが、最近の外国における「国産テロリスト」によるテロ事件を見てみると、必ずしも対象国出身の者によるものに限らず、対象国以外の国出身のムスリムによる例もみられることから、実態把握活動に当たっては、非対象国出身外国人であってもムスリムかどうかの見極めも確実に行うようお願いしたい。

イ 蝸集場所の発見

各種会議で繰り返し述べているとおり、平成 17 年のロンドン同時多発テロ事件以降、最近のテロやテロ未遂事件において、首謀者らが、テロ実行に先立ち、謀議や実行犯のリクルート等に閉鎖性のある蝸集場所を利用しており、こうした閉鎖性のある蝸集場所が、過激思想の温床となっていることが判明していることから、引き続き、蝸集場所の発見をお願いしたい。

とりわけサミット直前期までには、出入り者や内部の動向の解明等、容疑解明に全力で取り組んでいただきたい。

(2) 不審外国人・グループの情報収集・容疑解明

ア 提報者作業や実態把握活動を通じた不審情報の収集

これまで推進してきた提報者作業は、対象と仲良しになることが目的ではなく、あくまでもイスラム・コミュニティ内のセンサーとして、国際テロ容疑情報を収集することが目的。そこで、これからサミットまでの半年間は、特に不審情報の収集に重点指向した作業の推進をお願いしたい。この際、必ずしも協力度の高くない提報者については、思い切って打ち切ることも視野に、量よりも質に重点指向した作業をお願いしたい。当課としても、不審情報を従来以上に重点的に評価する。

また、現在推進している実態把握を通じて、これまでに把握していなかった対象者を数多く把握するに至っているが、こうした者の中から新たに提報者を設定することもあると思うが、その際は、これまでテロ対策上重要であるにもかかわらず、本数の少ないアラブ諸国（特にマグレブ諸国）出身者に重点指向していただきたい。

一方、新規に把握した者の中で、稼働実態、居住形態、警察に対する態度、服装等から判断して不審性を有する者を抽出し、不審情報として報告していただきたい。

なお、不審情報に基づき、本部が入って解明した署に対しては、これまでも部長賞を授与しているところ。

イ 積極的な搜索の実施

対象国人を検挙した際の搜索は、イスラム過激派やテロのインフラの発見、テロ容疑性の抽出にとって極めて有効な武器であることから、地域や交通で対象国人を取り扱った場合はもとより、刑事・生安・組対等の各部門において対象国人を扱った場合も、必ず係へ通報が来る体制を築き、また、合摘を実施した際にも、対象国人については安易に62条通報で済ますことなく、警察において搜索を実施するよう心掛けていただきたい。

また、搜索時の留意点は改めて今月の「情勢」に述べているので、帰庁後確認していただきたい。

(3) 管理者対策の強化

ア 化学剤取扱業者に対する管理者対策

本年6月に検挙した爆発物取締罰則違反事件を通じて得た反省教訓事項について。すなわち、

- ① 本件では、被疑者は、様々な業者から原材料となる化学剤を購入しており、その際、それらの業者は、特段不審に感じることなく、容易に化学剤を販売しているなど、化学剤取扱業者の危機意識が依然として希薄。
- ② 本件被疑者は、店舗だけでなく、インターネット販売を通じて原材料となる化学剤を購入していたことから、店舗に対する管理者対策だけでは十分ではなく、無店舗型のインターネット販売業者の発見、及びこれらに対する適切な管理者対策も併せて行っていく必要。
- ③ 爆発物を製造しようとする者は、事前に在庫や取扱いの有無を確認した上で購入するのではなく、とりあえず薬局、薬店に問い合わせをする可能性もあることから、7品目の化学剤を取り扱う業者に絞った管理者対策では十分ではなく、オキシドールや尿素などを販売している全ての店舗に対して、網羅的かつ恒常的に管理者対策を実施する必要。

各署にあっては、現在、化学剤取扱業者に対する積極的な管理者対策を行っていただいておりますが、店舗数的には相当な量に上っているが、巡回指導で当課から指導したとおりの、今後も繰り返し訪問し、不審動向を積極的に通報してもらえよう、人間関係作り及び教養を徹底すること。

イ 外国人が宿泊すると思われるホテル等に対する管理者対策

ホテル等の旅館業者に対する管理者対策では、皆さんの努力により、対象国人の宿泊情報については取れるところが多くなってきたと承知。一方、課題は、外国人の宿泊者のパスポートのコピーの保存。当庁管内ではまだ7割弱しか実施されていない。(未だ厚生労働省からの指導が周知されていない)

のか、周知されていて実施していないのか事情は様々であろうが、今回の旅館業法施行規則改正がテロ対策のためであることを理解していない都や各特別区の衛生部局からの指導が期待できない中、) 今後は、特に外国人の利用率の高い宿泊施設などのうち、厚生労働省通知の内容を実施していない旅館業者に対して、管理者対策を一層強化し、来日した外国人宿泊者のパスポートは全てコピー保存させるとともに、すべての旅館業者について、不審な外国人の来訪を直ちに通報してもらえる体制を構築かつ維持していただきたい。

ウ その他の管理者対策

これ以外の管理者対策（レンタカー業者、インターネットカフェ等）についても、実態把握、管理者対策がむらなく恒常的に行われているか、担当者任せにすることなく、常に幹部自ら確認を行うこと。

3 おわりに

以上述べてきたが、冒頭述べたように、4月の開発相会合を皮切りに、5月、6月になるとほぼ毎週のように閣僚会合が開催される状態になる。今後どのようなスケジュールで業務を推進していくのか、よく業務管理をすること。

また、先ほども述べたように、これからは徐々に各署への作業依頼が増加することが予想されるが、その際には、速やかな対応を是非お願いしたい。

19.12.18 Public Security • Foreign Affairs Chief etc Meeting Instructions (Draft)

1. Introduction

[Translation Omitted]

2. Counter Measure

Next, explain about the counter measures against terrorism concisely in line with important operations.

(1) Reality Assessment of Islamic Community

A. Assessment of residence of those coming from target countries etc in alliance with other sections

If terrorists enter our country from abroad and attempt to commit terrorisms, there can be little doubt that such terrorists will need the support of Islam communities in Japan. Also, given that in recent terrorist incidents, those settled in a country such as first or second-generation immigrants committed terrorism, it is important to assess the Islam Community in jurisdiction of each police station as a normal operation.

[Translation Omitted]

In addition, the assessment of the residence should prioritize those coming from target countries. However, given that not only Muslims from target countries but also Muslims from other countries committed terrorisms in recent home-grown terrorist cases in foreign countries, please make sure that [the police] conduct reality assessments activities of those coming from non-target countries and determine if they are Muslims.

[Translation Omitted]

平成 21 年 1 月 14 日
国際テロリズム対策課

関東地域国テロ担当補佐等会議概要（1/9：警察庁）

1 国際テロリズム対策課長訓示

昨年末に新たな通達を発出したところであるが、今春の人事異動も踏まえて確実に後任者に伝達できるようにしておいてもらいたい。大きな組織になればなるほど担当が細分化され、伝達に齟齬が生じることとなるので配意をお願いしたい。

私からは通達に関する概括的に話をしたい。

まず、第 1 点目は、爆発物原材料業者に対する管理者対策である。これは単にホテルに宿泊されたとは次元の違う問題であり、これが失敗するのと成功するのとでは大きな違いがある。

これに関して各県の知事部局には肥料取締法に基づく取扱業者のリストがある。7 品目とはいっても硝酸アンモニウムと尿素のみではあるが、そこからリストをもらっていると承知している。それを通じてサミット対策で実施した管理者対策では把握していなかった新たな業者も浮上し増えているはずなのに、一方、全国規模で調査を行うと把握業者が変わっていないとか減っているというありえない状況も起こっている。別にこれまでの管理者対策が不十分だったと責めるつもりはないので、新たな業者を把握したのであればそれらに対する管理者対策を行っていただきたい。

また、インターネットで取扱っている業者も判明しているので、そこはもう一度インターネットでの取扱いがあるか否かを確認してほしい。さらに、店頭購入の場合は一見して不審な客は分かるが、インターネットでの場合はそれが分からないので、何ををもって不審とするかについては、実際に管理者対策を行う警察署の専務員に対して指導教養をしてほしい。

皇居に向けた爆弾事件でもそうだが、犯人は自分の身分を偽らずに原料を購入している事実があり、これが身分を偽って購入していたらもっと分からなくなるという悲壮感もある。したがって、業者に対しては平素から正確な在庫管理と仮に盗難被害にあった場合には“何をどのくらい盗まれた”ということを速報できるようにしておくことを指導しておく必要がある。そのようなことから、管理者対策の中でも爆発物原材料業者対策は特に力を入れてお願いしたい。

第 2 点目は、B I C S についての関係です。

B I C S は、2007 年 1 月 1 日の導入から 1 年間で 846 名の入国を阻止をしたと入管側は成果を誇示しているが、無論、846 名の入国を阻止をしたことは良いことだと思うが、大半は東南アジアからの風俗関係従事者である。そんな中、報道で既にご承知と思うが、韓国人の 51 歳の女性が 2008 年 4 月 30 日に青森県から入国した。この女は 2007 年 7 月 31 日に退去強制処分となっていたにもかかわらず、8 ヶ月後に B I C S をかいくぐって入国できたわけである。この女は、2008 年 8 月 5 日に長野県で東京入管によって検挙されたが、ブローカーが田舎で入国させて全国的に動かし

ている実態だと思う。この女の供述によると、韓国出発当日にブローカーが直接貼ってくれたということである。ご存じのとおり、入管システムでは少なくとも指に指紋様のものがなければエラーとなり入国できないようになっており、入管側は指紋を採ったことは間違いないが、そのときの指紋と女の指紋は全然違っていると説明している。では、指紋様のものが指についていたとしか思えないが、その後はトイレに捨てられて分からないというのが実態である。いずれにせよ、入国されたことは事実であり、風俗関係者ではなくこれがテロリストだったならもっと巧妙な方法になるだろうと危惧している。これに関して良い方法は入管側にきちんとした通達を出して基準を厳しくしてもらうことなのだろうが、当面可能な方法としては海港や空港を持つところに人は入管側と協議をして「指を確認してから指紋を採取すること」等の内容を韓国語や中国語等で記載した紙を入国予定者の見える場所に掲出して、不法入国者にやりにくくするという対策を取ってもらいたい。本当はプログラムを見直すことが良いのだろうが、時間も費用もかかることを考えれば、紙ひとつ貼りだすことは皆さん方の指導ひとつだと思う。

第3点目は、実態把握である。従来からO I C 5 6ヶ国1地域を重点に言い続けてきたが、フィリピン、インド、タイ等非O I C諸国でムスリムが多い国、すなわちムスリムか否かに着目し、国籍にとらわれない過ぎない実態解明をすすめてもらいたい。また、2世問題をどう把握するかという命題についても、現時点では警察庁においてもこれという方策はない。他方、組織犯罪対策部においては「集住対策」なるものの検討を始めている。これは主としてブラジル人を対象にしたものであり、あまり集住する傾向のないムスリムには関係ないかもしれないが、集住対策を行う前には外国人一般に対する実態把握が前提となるものであり、集住ではない外国人がどうなのかという点については関心をもってもらいたい。

第4点目は、現時点では手も足もでないのが実情のインターネット上の情報収集についてであります。当然、語学ができることが前提であり、語学ができていても入っていけないサイトがあるのも事実であります。警察庁においても名案があるわけではないので、皆さん方から知恵を拝借したと考えています。

2 新通達概要説明（大嶋補佐）

今般、発出した通達の中で追加した項目や変更点につき、項目を追って説明。

「警察各部門間の連携」という言葉が随所に表れているが、各種施策はサミット対策を通じて警備部門だけではもはや対応しきれなくなっていることは皆さんが感じられたとおりに思う。したがって、警察組織が一体となって各種対策を実施することを明確にする示す必要からこの言葉を盛り込んだ。

次に、「協力者」という言葉を使う場合には獲得対象者のみに限定し、その他の情報提供者については「協力者」という表現は避け、両者を併せて「情報線」と表現する。換言すれば、協力者たる指導係が管理する情報線と協力者とは呼ばないデスクが管理する情報線の2種類が存在する。当然ながら、指導係が管理する協力者からの情報も可能な範囲においてはデスクと共有する。

続いて、「インターネット上の不審情報の収集」では、インターネットが過激化対策上、必要不可欠なツールとなっている現状に鑑み、限定的なチャットルームに対する情

報収集をお願いする。

第4点目は、「容疑解明案件の警察庁に対する報告」についてであります。

サミット期間中においては多数の容疑解明を実施していただいたけれども、対象者が過激化のいかなる段階にいるのかという見極めを必ずしも行わずに事件に着手した、あるいは入管法違反等によって逮捕捜索を行うことで容疑解明は終了してしまったものも散見され、その後、当該対象者を容疑解明対象者から外すこともあった。一旦、目をつけた者を視察線外に置いたところ、テロを敢行したという事例が海外で見られることから、容疑解明作業というものを長期的視野で行うこととし、新通達では容疑解明対象者を登録する制度を導入したものである。

第5点目は、「ネットワークの全容解明」についてであります。

近年の情報分析では対象者のネットワークを把握することが肝要であり、そのためのツールとしてアナリストノートブックを配布しているわけであり、最大限これを活用していただきたい。

第6点目は、「コミュニティ対策」についてであります。

旧通達ではなかった項目であるが、「過激事項に感化され易い層を作り出さない」あるいは「感化されつつある者をいればそれをいち早くキャッチする」ためにコミュニティとの関係を作っておくことが非常に重要になっている。こうした活動を「コミュニティ対策」として通達に明記したわけである。先の集住対策、とりわけ日本人が入り込む余地のない外国だけで生活できる日本の中の外国のような地域が犯罪の温床になったり、テロリストの隠匿場所になったりするおそれが大きいため、共生による取組みで地域にとけ込ませるようにすることでその動きを把握しようとするものである。

第7点目は、「爆発物原材料取扱業者に対する管理者対策」についてであります。

旧通達では、ホテル対策とレンタカー対策のみに絞っていたが、皇居に向けた爆発物発射事案を捉えて、爆発物原材料取扱業者に対する管理者対策を明記することとした。

3 実態把握、不審情報の収集、コミュニティ対策関連指示（茂木補佐、阿波谷補佐）

○ 実態把握（茂木補佐）

はじめに20年通達（以下「新通達」という。）の実態把握についてお願いします。

皆さんご承知の通りであります、「実態把握は国際テロ対策の基礎・基盤となる情報を収集し、管内のイスラム・コミュニティ等を把握」することです。その目的は不審情報の収集及び事後捜査での活用であります。

わが国には9万人を超えるO I C諸国人が居住するとみられていますが、昨年のサミットまでに、O I C諸国出身者約72,000人（把握率98%）を把握できました。

これに比べて、インド、フィリピン等の非O I C諸国出身者については、数万人規模の在留数があると推定されていますが、全国でも把握数が少なく（平成19年6月現在、2,549人）、そのコミュニティの状況もよく分かっていませんので、特に、今後は従来の実態把握に加えてO I C諸国以外のムスリムやムスリム第2

世代の把握に力を入れていただきたい。

そこで新通達では、特にO I C諸国と記載せず、「ムスリムの居住実態、就業や教育等の環境」として掲げました。さらに、1月6日付の事務連絡「実態把握の現状に関する報告について」を発出したところであります。

ご承知の通り、ムスリムはO I C諸国以外の国にも当然存在（インドには約1億人、仏教国タイも数百万人）しており、これらムスリムの把握が今後は大変重要になってまいります。

ムスリムであることの判断は一般には困難であります。モスクへの礼拝、名前（英国籍でもムスリム特有のもの～ムハマドなど）等から把握してください。

他にもO I C諸国以外のムスリムの把握方策として、外国人を雇用している企業等では、出身地や宗教を把握している場合もあることから、管理者からの提報により把握したり、通信販売によるハラフードの定期的購入者リストの入手による把握といった方法もあり、常に斬新な把握方策に努めていただきたい。

警察庁としましても各県の好事例について随時、紹介するなど各県の実態把握の向上を支援してまいります。

次に、ムスリム第2世代の把握についてですが、

ムスリムの過激化動向をいち早く察知するためにも、ムスリム第2世代の把握に特に力を入れていただきたい。第2世代ムスリムは、帰化している可能性もあるほか、日本人を親に持つムスリムの子供は日本国籍を有し、外国人登録をしていない場合が多く、入管統計に表れないと思われま。また、就学状況の統計資料はなく、ムスリムの中には自らの子弟に出身国やイスラム諸国で就学させる者もいるため、現時点で日本に在住しているとは限らないなど、在留統計には表れない部分の把握が一層重要となってきます。欧米諸国においてテロを実行あるいは企図した、いわゆるホームグロウンテロリスト対策に向けても、ムスリム第2世代の把握は不可欠であります。

特に第2世代の内、15歳以上のムスリムについては就職適齢年齢であり、ホームグロウンテロリストの脅威になりうる存在でありますので、早期に把握していただきたい。

O I C諸国外国人登録者数のうち、未成年者の数は毎年500人のペースで増加しており、単純計算で、2011年には、未成年の在日ムスリム世代が1万人に達します。

しかし、先ほど申しあげましたように在留統計には表れない部分もあり、正確な数の把握は困難です。巡回連絡等を通じたムスリム世帯の把握など、地道な警察活動による把握をお願いします。ただし、「ムスリムの狙い撃ち」と非難されないように各県の実情に応じた工夫した把握をお願いします。正確な就学状況は地道な巡連等で得た情報を積み上げる以外にはありませんので、よろしくをお願いします。

ムスリム第2世代の把握方策として、

- ・ 子供のためのコーラン教室参加者から把握
- ・ 自転車の防犯登録のデータベースにより把握
- ・ スクールサポーター等を通じた把握（イスラム教を起因とする学校における相談事案等の取扱い）

などを参考としていただきたい。

さらに、新通達では「ムスリムの子弟で海外に居住するものの実態」を掲げておりますが、日本にいないムスリムの子弟の把握方策については、各県の方策を集積して、好事例として紹介したいので、斬新なアイデアを出し合って進めていくためにも、よろしくをお願いします。

ここで関西のある県による「県内におけるムスリム第2世代の実態」を分析した好事例を紹介いたします。調査対象は県で把握しているムスリムの第2世代で、現に日本に定住している者及び将来、定住すると思われる者としています。分類では親の国籍・0歳から9歳等の年代・居住地域別として統計化して、

- ・ 現段階でホームグロウンテロリストとなり得る者の数
- ・ 第2世代対策の対象となる国の抽出

を行っています。また、第2世代の生活実態を分析、特に学校生活について詳細に調査しています。例えば、第2世代特有の行動として、「学校での礼拝や礼拝を理由とした遅刻状況・ラマダン期間中の給食拒否状況・給食制の学校における弁当持参状況・ラマダン中の体力減退に伴う体育の見学状況・女子学生のスカート着用」等を挙げています。

ただムスリムの中には、「イスラムを重視するよりも日本への同化を望んでいるので、給食に注文をつけたり、学校では断食も礼拝もさせていない」という人も当然おります。

さらに学校側の対応についても調査していますが、現在までのところ、ムスリム特有の行動を規制・禁止している学校は把握されておられません。

この県では20歳未満の第2世代が85%おり、ムスリムとしてのアイデンティティを確立していない世代であることから、親だけでなく、イマームやインターネットなどの影響を受けやすく、モスクやネット利用も把握が欠かせません。

第2世代が抱える問題の分析では、各県も共通するところがあると思いますが、

- 1 ムスリム特有の行動や外見上の違い等に起因するいじめや差別
- 2 イスラムの教えを实践させようとする親の意向とそれを望まない本人との対立

を挙げています。

これらの問題は将来、日本社会に対する不満へと発展し、その不満が第2世代の過激化の要因となる可能性もありますので、今後、各県の皆さんもぜひ「県内におけるムスリム第2世代の実態」について分析して下さい。

○ 不審情報の収集（茂木補佐）

大きな項目の2つ目は「不審情報の収集」についてであります。

不審情報の収集の手段には「幅広い警察活動・情報線の布石・管理者対策等による一般協力者・インターネット」等がありますが、新通達では、特に「インターネット上の不審情報の収集」を掲げております。ご承知のとおり、国際テロリストはインターネット上において宣伝（プロパガンダ）、相互連絡、勧誘、資金及び物資の調達、テロに役立つ情報収集等の様々な目的で利用しているといわれており、実際、近年のテロ事案（例えばマドリードにおける列車同時爆破テロ事件、オランダ・ホフスタッド・グループによる映画監督殺害事件等）では、ほぼ例外なくインターネットが何らかの形で利用されています。

我が国において、現時点では、テロリストの相互連絡、勧誘及びテロリストによる情報収集の実例は把握されていないものの、留学生等がイスラム過激派のウェブサイトで過激なメッセージに触れる例や、チャットルームにおける過激発言の例がみられるところでもあります。また、インターネットを通じて爆発物製造に必要な情報及び原料を調達することも可能であり、イスラム過激派の背景はないものの、実際に爆発物を製造、使用する事案もみられました。

最近の在京情報機関からの情報を端緒に、ある県に容疑解明をお願いしていますが、通常の動向を見る限りでは特段の状況は把握されておりません。視察活動から対象の不審動向を把握することが極めて困難であることは、皆さんご承知のところではありますが、では、海外の過激派グループとその対象は全く連絡を取り合わないのでしょうか、当然考えられることはインターネットなどを活用した情報交換を自室等の密室で行っていると思われます。

各県においては、過激発言の行われるチャットルーム等について、日本語で運営されているもの又は在日者が参加しているものの把握及びその性質に応じて監視又は捜査を行っていただきたい。中でも、在日者がアラビア語、インドネシア語、ウルドゥ語等の外国語で運営するものについては、使用されている言語を母国語とする協力者を積極的に活用していただきたい。

また、爆発物原材料販売サイトを始めとするテロリストに悪用され得るサイトについては、各県においてこれを発見し、管理者対策を実施していただきたい。

このように今後は、インターネット上の諸活動に係る情報収集が極めて重要となっておりますので、皆さんもぜひ、インターネット上のテロに関する諸活動に対して積極的に発見・捜査を実施してください。

ここで、最近のインターネット上の過激発言を把握した事例を紹介いたします。

※パルトーク事案の紹介

この事案は情報線からの通報により、インターネットの「パルトーク」を通じて、ジハードを煽動する在日パキスタン人を把握し、事件化を通じてサミット期間中のテロの脅威を一時的に排除するとともに、実態解明を試みたものであります。

対象は40歳のパキスタン人男性で永住資格を持つ本邦滞在期間20年の者です。

対象者特定の経緯は情報線を当該チャットルームに参加させ、半年以上の期間をかけて対象者と信頼関係を構築の上、対象者の自宅や携帯電話番号等を把握し、特定しました。対象者の居住地確認の結果、同所がパキスタン人の集団居住場所と判明、継続捜査の結果、不法残留者の居住を確認し、「犯人蔵匿」容疑で強制捜査に着手、通信記録、パソコン等を押収しました。

パルトーク捜査の問題点として、第一は「パルトークに参加するための障壁」であります。チャットルームで過激な発言をする者を把握するためには、参加することが必要であり、ウルドゥ語やアラビア語に精通している(あるいは母国語としている)ほか、イスラムに関する高度な知識も要求されます。チャットに参加しながら発言をしなかったり、不適切な発言しかできなければ管理人から不審・不適格とみなされ排除されてしまうため、容易に情報収集が図れるものではないということです。

第二は「閉鎖性」です。パルトークには、参加者同士の「プライベートメッセージ」機能や限定された参加者しか入れないチャットルーム等も存在します。現在「ジハード煽動事案」の対象者は、自身のサイトについて「警察に監視されている」と他の参加者に呼び掛け、この限定的なチャットルームを使用しているため、実態がつかめなくなっており、パルトークの閉鎖性が障害となっていますが、容疑解明はやはり具体的なテロ動向がない限り、事件化を急ぐべきではないとお願いしていることの証であります。

第三は「実態把握の困難性」です。パルトークには、過去の発言履歴は残らず、不審・不穏な言動の事後検証ができないため、対象者がいつチャットに参加するか事前に把握ができなければ言動の記録等、実態把握に困難が伴います。

最後にパルトーク捜査の留意事項ですが、チャットルーム等への情報線投入等の運営に当たっては、各県のみで判断することなく、当課担当係と緊密に連携を行い、特に情報線が参加(登録)することにより、又は、チャット内で書き込み、発言する内容等により、「情報線が特定されることはないか」、「情報線が犯罪に関与し、あるいは巻き込まれるなど身に危険を及ぼす恐れはないか」など、情報線保護の観点、防衛上の問題点について検証し、実施していただきたい。

以上、不審情報の収集に当たって、特にインターネット上のテロに関する諸活動の発見・捜査について、お話しさせていただきましたが、今やインターネットにおいても情報線の布石が大変重要なものとなっていることを認識していただき、あらゆるコミュニティへの情報線の布石を目指し、質・量ともに十分な不審情報の収集に努めていただきたい。

○ 不審情報の収集(阿波谷補佐)

面接作業については、サミット対策に伴う幅広情報を収集するために行ったものである。情報線を広げることによってサミット対策に資する参考情報が得られたことは間違いのない事実である。他方、サミット終了後に行われたブロック会議でいろいろな県から聞くと、面接作業を継続することにより様々な問題点が出てきていることも否めない事実である。それを踏まえて11月18日付けの電話指示により面接作業

の必要性・適格性を判断してその上で継続する必要があるのか否か、そして、その中で幅広く管理登録をして捜査費が執行できる県段作業あるいは本庁登録作業として取り組むべきものは取り組んでもらいたい。あと、打切るべきについては打切る。しかし、デスク等とも協議したところ、県段作業には至らないものの何らかの情報が取れるため情報線として残したいといった場合には、準県段作業扱いとして指導係が作業終息まで面倒を見るものとして残すことにした。

ただ、面接作業において見直しをかけたかについては、面接作業とコミュニティ対策とが混同している状況が窺えたことにある。コミュニティ対策的な感覚をもって表の顔で近づき“イスラムの勉強をさせて下さい”と言いながら実際には“モスク出入り者の話を聞いている”。さらにそれを聞くに当たって、まだ、はじめの段階で突然警察ですと言って相手にそういう話をする。我々の感覚で言うと初期の防衛指導ができていない段階で、そういう話をするのは“抜ける”と見ていいわけである。

昭和63年8月17日付けの“トンプク”という通達を皆さん方承知していると思うが、我々が行う情報収集活動、第三者に行わせる情報活動、ともに秘匿が原則である。それが初期の防衛指導を行わない段階から、そういう話すればブログ等によってムスリムの間で“警察が来た、うちにも来た、うちにはまだ来ない”とあって広まってしまった。我々はそれを是正しているが、今現在も公安調査庁は似たようなことをまだやっている。

ではなぜ、そのようなことが可能だったのかというと、それは相手が善良な人間だからだ。警察が行けば話を聞かせてくれるし、話してくれるからまた聞くの繰り返しであり、ほかでみんなに話してしまうことになった。そこで中長期的視野に立って見直しをかけて、新規の登録はやめるけど残せる者は残してほしいということにした。残すときに注意してほしいのは、本人の適格性についてである。某県では過去に刑法犯で捕まっていた前歴を有する者が対象者として上がっていたことがあった。見直しに当たっては是非、今一度本人の適格性について検討してもらいたい。また、昨今の金融不況によりムスリムの生活は非常に苦しくなっており、何らかの犯罪に手を染める者も出てくるかもしれないので、その見極めだけは誤らないでほしい。

インターネット上での不審情報の収集については、対象者を閉鎖性の強いチャットルームへ投入することについては、積極的に検討しつつも、協力者保護には多角的な方向から検討を加えてほしい。つまり、対象者が自分の生活基盤を破壊してやっても我々は対象者の生活全ての面倒を見ることはできない。基本的には、対象者の協力の意思に基づいてやっていただく、その中で情報の対価としては出せるものは出すが、対象者の財政支援ではないことを忘れないでほしい。

最後に協力者からどんな情報が得られるかを常に検証してほしい。協力者を取り巻く環境は日々変化している。協力者の中には、担当者が聞かなかつたら必要ないと思ひ話さなかつたという事例が散見されるので、協力者の人脈、能力等を常に検証してその可能性を見極めてもらいたい。

○ コミュニティ対策（茂木補佐）

大きな項目の3つ目は「コミュニティ対策」についてであります。

これまでも、都道府県警察においては、巡回連絡、防犯教室、交通安全教室等の様々な警察活動を通じて、他のコミュニティと同様にイスラム・コミュニティとも信頼関係を構築し、ムスリムが疎外されず、また、不審動向についての情報提供が円滑になされる環境作りに努めてきました。今後、第2世代ムスリムを中心に過激化の懸念が高まり得ることにかんがみれば、イスラム・コミュニティを地域社会に融和させるとともに、穏健派ムスリムの声を用いて、イスラム過激派が提唱するジハード思想を否定する取組みが必要となってくるところであります。

新通達の「コミュニティ対策」の項目の内、「(1)イスラム・コミュニティとの関係構築」については、従来から実施していただいておりますが、面接作業等の作業と異なる点は、コミュニティ対策は警察側から情報を求めるのではなく、各コミュニティから不審情報等が提供されるような関係構築に努めるということでもあります。

サミット対策を見据えて実施した面接作業については、この後、阿波谷補佐から説明がありますので、ここでは、新通達の「コミュニティ対策」の項目の内、「(2)イスラム・コミュニティの孤立化防止に向けた取組み」について説明いたします。都道府県警察においては、他部門や他機関とも連携しつつ、共同でボランティア活動を行うなどにより、イスラム・コミュニティを地域社会に融和させる方策を講ずるとともに、イスラム・コミュニティの中で一定の権威をもって、「正しいイスラム」について発言できる人物との間で関係を醸成し、我が国のイスラム・コミュニティに過激思想に対する抵抗力をつけさせる取組みを行っていただきたい。また、実際にムスリムと接する警察官に対しては、警察がイスラムと敵対しているとの誤解を受けることのないよう、用語法やマナー等についての教養を行っていただきたい。

過激化の一般的な要因の一つとして、地域社会からの疎外感や孤立化が挙げられます。

これらを防ぐために、自治体やNPO等の非政府機関や町内会等の自治会をはじめとする地域社会をも巻き込み、イスラム関係団体との良好な関係を相互に構築していただきたい。これにより、イスラム・コミュニティが地域社会に溶け込み、地域と共生していることを実感させることが過激化防止の有効な方策の一つであります。

また、国際捜査部門等が構築した「共生のための枠組み」についてですが、平成18年3月に総務省が策定した「地域における多文化共生推進プラン」に基づき、警察庁においては、組織犯罪対策部が中心となり、外国人による犯罪対策・外国人の犯罪被害の防止という観点から、従来の犯罪対策に行政的な手法を組み合わせ「日系外国人等総合対策」として取り組んでいます。

本施策はあくまで、知事部局や市町村等の地方自治体を中心となって推進していくべき対策を明らかにしたものでありますが、これまでも本対策の枠組みを利

用してイスラム・コミュニティ対策を推進している県もあり、国際テロ対策上、有効な枠組みや対策が含まれているため、各県の状況を確認し、必要に応じて本枠組みを利用していただきたい。また、今後、数年間のうちに就職適齢期を迎えることになるであろう第2世代ムスリムを中心として、過激化の懸念が高まると予想されます。この点、外国人犯罪対策の観点からは、日系ブラジル人を中心とした若年層外国人のアウトロー化の要因の一つとして、日本語能力の欠如による学校からのドロップアウトが指摘されているところ、国際テロ対策においても、第2世代ムスリムの実態把握と過激化防止等に資するため、学校やNPO等の他機関や民間団体と連携し、家族参加型の防犯教室や交通安全教室の開催、共同ボランティアの実施等、幅広い層に対するアプローチを積極的に検討していただきたい。

それでは、コミュニティ対策における好事例を紹介いたします。

北陸のある県における「外国人中古車業者問題に対する取組み～他文化共生推進プランと連携したコミュニティ対策」であります。

同県では、1980年代後半、ロシア向けの中古車輸出が開始、1991年にはパキスタン人が中古車業を開業し、その後、200件以上のパキスタン人を中心とする外国人中古車業者が同県某市の国道沿いに集中し、彼らによるごみの不法投棄、廃車の放置、ガソリンやオイルの垂れ流しや違法駐車等が社会問題化し、地域住民に不安を与えることとなりました。地域住民は県に対して、「ヤード内に設置されたコンテナハウスの違法性」に関し、異議申し立てを行っていますが、現在まで解決には至っていません。

他方、某市は外国人中古車販売業者等が多数居住する現状を受け、自治体や関係機関、外国人住民などで組織する「多文化共生推進会議」を設置し、「外国人との共生・融和」を目指した取り組みを開始しました。

主な取組みは、

- 1 住民で組織する「パトロール隊」の官民合同パトロールに外国人中古車業者が参加
- 2 外国人中古車業者も参加した「治安の現状と問題点」に関する懇談会を開催
- 3 「他文化子どもサポートセンター」を設置し、外国籍の子供に日本語や習慣を教えるほか各種レクリエーションを通じて遊びの場を提供
- 4 ローカルラジオ局において、外国人向け生活情報等を発信
- 5 外国人業者とともに県道沿いの清掃活動を実施

などです。

こうした自治体、警察、地域住民及び中古車業者による共生を目指した取り組みにより、それまでお互いに接点のなかった地域住民と外国人中古車業者の意識も変化しつつあり、両者の歩み寄る姿勢が明らかとなってきています。

以上のように、コミュニティ対策の要諦は

- ア テロリストが接近しにくい、入り込めないコミュニティ作り
- イ コミュニティが不審情報を察知したときに、こちらからあえて聞かなくとも、教えてもらえるような関係作り
- ウ 過激化させない環境作り

であり、各県のコミュニティの状況に応じ、創意工夫しながら有効な対策を講じていただきたいと思います。

3 容疑解明関連指示（阿波谷補佐、日高係長）

○ 拠点設定（阿波谷補佐）

視察拠点については積極的な設定を行う必要があり、長期間に及ぶ追及作業に保秘しながら効率的に行うためには必要などころに必要な拠点を設定する必要がある。

しかしながら、種々の条件をクリアするためには必ずしも直接視認できる場所に拠点を設定できるとは限らず、そういった場合にはその動線上に拠点設定を積極的に行うこと。

また、拠点には、作業の終息が見えないで設定する恒常拠点と、いつからいつまでと機能を定めて設定する臨時拠点とがあるが、安全面等拠点設定必要な構想に差異はない。

状況によっては、我が社の看板を掲出しての拠点設定もあり得るが、その目的は相手に我々の施設借り上げを察知されないことであり、この点に留意しなければならない。

○ 不審情報の取扱い（日高係長）

不審情報については、入手県に解明の第一優先権がある。しかし、A 県が入手した不審情報が B 県に係わる場合、A 県と当課担当で協議の上、B 県に参考情報として通報する場合も有り得る。この場合、不審情報の内容にもよるが、解明についての主導は B 県に移動する。A 県に情報線がある場合、A 県は B 県に参考通報後も、不審点解明について、情報線活用による、情報提供を継続することとなる。

○ 指定後の継続解明における留意事項（日高係長）

A 県が解明後、指定された対象の継続解明について、対象が A 県居住の場合、引き続き A 県が担当することは問題ないが、A 県が解明した対象が B 県に居住する者であった場合、又は、A 県から B 県に転居した場合、A 県、B 県、当課で協議の上、通常であれば、B 県が担当することになる。B 県にしてみれば、全く知らない容疑解明対象が突然、担当することになってしまうことから、転居の場合は仕方ないものがあるが、着手時に、元々 B 県居住者であった場合、A 県のみで、解明に当たるのではなく、当課の調整が必要であろうが、B 県にも共同で解明作業に当たっていただき、指定されれば、B 県が継続解明できるよう配慮しようと思っている。

4 各種管理者対策、国際海空港対策、重要施設等の防護関連指示（大島補佐）

○ 各種管理者対策

サミット期間中においては、爆発物原材料取扱業者約 8 万 4,000 社に対してのべ

11 万回以上の管理者対策を実施し、結果として不審情報もあり一定の成果があったものと評価している。しかし、9 月 18 日には皇居に向けた爆発物発射事件の発生があり、しかもサミット対策期間中にインターネットで爆発物原材料を購入していた事実も発覚した。これにより硝酸アンモニウムやヨウ素といった硫黄系の原材料を取扱っている業者については、少なからず未把握の業者も存在するのではないかと、硫黄系の原材料に限らず 7 品目のインターネットによる販売業者についても未把握の業者が存在するのではないかと考えられたところである。そこで警察庁としては、「爆発物原材料取扱業者の網羅的な把握」と「インターネットによる販売に対する働きかけの強化」の 2 点を重点課題として昨年 10 月 20 日付けで各課連名の通達を出したところである。特に尿素や硝酸アンモニウムといった肥料系の原材料については、従来の薬局やホームセンター等に限らず未把握の業者をもう一度洗い直す必要があるため、知事部局の保有する業者リストを入手のうえ、それに基づく管理者対策を実施するよう指示したところである。1 年前の警備企画課が実施した 7 品目の取扱業者の調査では 49,478 件であったものが、今次調査では 55,189 件と増加し、インターネットでの販売業者数も 327 件が把握できた。しかし、全体での把握は増加したのにもかかわらず、5 県では減少している状況が窺えた。減少した理由は廃業や取扱いがなかったにもかかわらず誤って計上してしまったというのが主なものではあったが、本当は取扱いがあったのにそれを計上しておらず調査の詰めが甘いとの叱責をおそれるあまり計上していないのであったならば本末転倒である。大切なことは、ありのままの実態を正確に把握し、不足している場合には然るべく対応を取る点にある。また、通達に示してある「警察各部門間の連携」とは、決して相手に任せきりにするというのではなく、検証をしながら一緒にやっていくことなので間違いのないように。

ホテル対策の分野においては、旅館業者の執りうるべき措置の達成率は約 95 % にのぼっている一方、約 1.4 % の業者は指導説得や捜査関係事項照会書での照会にも応じないものがあり、その理由を見極めて対策を講じる必要があると考えている。

「テロリストが利用するおそれのある事業者」では、追加事業者のひとつとしてキャンプ場をあげているが、これはホテルに変わる宿泊施設であるとともにテロ訓練を行う可能性もあるので注意を要する。

○ 国際海空港対策

サミット期間中には船員に対する B I C S の実施等法令にないことの働きかけをお願いしたところであるが、これらは新行動計画に関連項目を落とし、法務省や財務省等と協議を行いながら、引き続き各種の働きかけをお願いすべく新通達に盛り込んだ次第である

次に B I C S のすり抜け事案についてであるが、韓国人女性の供述によると「見た目はザラザラした薄い白いテープを貼っていた」ようだが、これ以外にもゼラチン状のものを指に巻いた事案（韓国人）、指にマニキュアを付着していた事案（台湾人）、故意に指を傷つけた事案（スリランカ人）等がある。入管では現場の入国審査官に外国人の指先を確かめるように指示をしているが、今回の本件事案の発生を受けて品質値が 20 以下の場合、概ね 70 歳以上の者を除いて指先に細工がな

いかを確認する指示を出している。ちなみに、青森空港から入国した韓国人女性の品質値は14であり、品質値20がいかなるものか詳細は不明だが常に待ち時間短縮というプレッシャーとの中で指紋を採っている入管では念入りに確認していないのが実情であろう。

不審入国者に対する追及では、必要に応じて関係機関と合同によるシュミレーションを実施する等連携の強化を図ること。

国際海空港における職務質問及び声かけについて実態把握上有益であり今後も体制を確保して継続してほしい。ただし、無用な紛議を起ささないためにも、職務質問と声かけの違いについてはしっかりと現場警察官に教養をすること。本日の朝刊に、2006年8月にアラビア語で書かれたTシャツを着たイラク系米国人がNYから国内線に乗ろうとしたところ、当局から「アラビア語で書かれたTシャツを着て空港に来ることは、『私は強盗です』と書かれたTシャツを着て銀行に来たようなものだ」と言われた上に航空会社からは別のTシャツを着せられた当初の座席とは別の座席に座らされたとして、航空会社から和解金24万ドルを受け取った記事が出ていた。

受入者に関する情報収集では、従来どおりの方法でお願いするとともに、蓄積されたデータは、アナリストノートブックでの分析を検討してもらいたい。

重要施設の防護については、警備課長は連名していないけれど指示文書発出に先立っては警備課と協議を済ませているので安心して実施してほしい。

敵対的偵察対策については、以前は兆対策と呼んでいたもので、テロ対象側から見た不審情報の対策である。昨年インド・ムンバイテロでは犯人が街の小路に迷うことなく入り込んでおり、間違いなく入念な下見が実施されていたことが窺われる。これに見られるように、対象施設周辺でビデオ撮影等の不審行動が見られたら警備員必ず通報するよう指導助言するとともに、車両ナンバーを控える等事後追跡ができるような記録化に努めさせるようにすること。

5 質疑・補足

問 共生対策においては、地区によって対象団体の構成員、例えば朝鮮総聯の関係者がメンバーとなっている場合があるが、その場合の対応は如何にすべきか。

答 あくまで共生対策とは自治体等の行政が主体で実施すべきものと認識しているので、警察はそれらの後方に位置して支援するというスタンスであれば良いと思う。

問 共生対策において、警察での主導的役割をするのは警備部門ではないという理解でよろしいか。

答 そのとおり。

問 容疑解明対象者について基調、行確、海外からの情報提供等のすべてにおいて容疑性を肯定しうる要素が確認できない場合には、容疑解明対象者としていかなるカテゴリーに分類するのか。

答 基調、行確等のみによっていかなるカテゴリーに分類することなどあり得ない。結果的には事件化によって取調べや証拠品の精査、分析等によって確認がなされ、

適切なカテゴリーに分類されるのではないかと思う

問 不審情報と容疑情報の隙間にある情報はどう吸い上げるのか。

答 警視庁では、提報者制度でカバーしている。

以 上

Summary of the Meeting with Kanto Region International Terrorism Assistant Section Chief (January 9: National Police Agency)

1. Instructions from the Chief of International Terrorism

We issued a new guideline last year. Based on personal reshuffle in this spring, please make sure that the guideline will be communicated to your successors. As an organization becomes larger, the accurate communication of information will be difficult. Thus, Please be careful.

I want to briefly talk about the guideline.

First point is ...[Translation Omitted]

Second point is ...[Translation Omitted]

Third point is reality assessment. We have continuously emphasized the reality assessments of 56 members countries and 1 member territory of OIC [Organization of the Islamic Conference]. But please continue reality assessment focusing on Muslims irrespective of nationality, and include the non-OIC countries such as Philippines, India and Thailand as targets of Reality Assessment.

[Translation Omitted]

2. Summary of the New Guideline (Assistant Section Chief Ohshima)

[Translation Omitted]

3. Reality Assessments and Collection of Suspicious Information, Community Policing (Motegi Assistant Section Chief, Awaya Assistant Section Chief)

• Reality Assessment (Motegi)

First, I would like to explain about the reality assessment described in the guideline issued in 2008 (hereinafter “New Guideline”).

As you may know, “reality assessments means the assessments of Muslim communities in your jurisdiction by collecting information which forms the basis for counter-international terrorism measures”. The purpose of reality assessments is to collect suspicious information and use the information in investigations afterwards.

More than 90,000 people from OIC countries are estimated to live in our country. We have assessed more than 72,000 people from OIC countries (Assessment Rate 98%).

By comparison, the number of assessed individuals from non-OIC countries such as India and Philippines is small (2,549 individuals, as of June 2007), even though tens of thousands of Muslims from non-OIC countries are estimated to live in Japan. Also, the police are not familiar with the Muslim communities of those from non-OIC countries. Thus, for the future, please focus on assessment of Muslims from non-OIC member countries and second generation Muslims in addition to reality assessments of [OIC member countries].

Thus, the New Guideline describes “Residence, Employment and Educational Environment of Muslims” instead of describing OIC countries specifically. In relation to

that, the [National Police Agency] issued administrative manuals titled “Report on the Current Status of Reality Assessment” on January 6.

As you may know, Muslims live in non-OIC countries (i.e. 100 million Muslims live in India and several million Muslims live in Thailand, which is primarily a Buddhist country), and the assessment of these Muslims are very important in the future.

It is generally hard to determine if a person is a Muslim, but please conduct your assessment based on factors such as worship in Mosques and names (i.e. English names peculiar to Muslims, such as Mohamed).

In addition, in order to conduct assessment of Muslims from non-OIC countries, please make effort to devise a creative measure. For example, companies employing foreigners sometimes know about the country of origin and religion of their employees, and the police can conduct assessment [of Muslims] through information from a managerial staff of a company. Also, you can assess Muslims based on the list of periodic purchaser of halal foods via mail order service.

Next, I will move on to the assessment of the second generation Muslims.

Please focus on the assessment of the second generation Muslims in order to detect the trend of radicalization of Muslims as soon as possible. Second generation sometime naturalized to the Japanese citizen. Also, if one of the parents of Muslim children is Japanese, the children hold Japanese nationality, and often do not have alien registration. These Muslims do not seem to appear on statistics of immigration bureau. Also, there is no statistics about schooling, and some Muslims let their children study in their own countries or other Islamic countries, so some Muslim children do not live in Japan. Thus, assessments of Muslims who do not appear on the statistics on resident foreigners are increasingly important. In addition, assessment of second generation Muslims are inevitable as a counter-measure against homegrown terrorists, who attempted terrorism in Europe and the United States.

Especially, among second generations Muslims, those who are over 15 years old are at the employment age, and can be a homegrown terrorist, please conduct assessment at promptly.

Among foreign residents from OIC countries, the number of minors is increasing by 500 persons per year, and the minor Muslims in Japan will reach 10,000 by simple arithmetic in 2011.

However, as I explained earlier, some Muslims do not appear on the statistics on resident foreigners and the accurate understanding of the number of Muslims is difficult. Please continue assessments via steady police activities such as assessments of Muslim households through patrolling and reporting. However, please devise a way of assessments in line with the condition of each local prefecture so that the police should not be criticized as “targeting Muslims”. Accurate data on schooling can be obtained only through the accumulation of information through steady patrolling and reporting.
[Translation Omitted]

Appendix 4-1: Document titled “Mosque Monitoring System after June 23rd”

平成 20 年 6 月 18 日
外事第三課・モスク

6 月 23 日以降のモスク視察体制等について

1 要警戒対象

現時点においてモスク班抽出の「要警戒対象」の選定はなし。

2 モスク視察体制

① モスク班体制

係長以下 4 3 名

② 視察実施モスク（7 モスク）

- ・ [Redacted]
- ・ [Redacted]
- ・ [Redacted]モスク
- ・ [Redacted]モスク
- ・ [Redacted]
- ・ [Redacted]モスク
- ・ [Redacted]モスク

都内の7つの
モスクの名称が
記載されている。

③ 視察体制

- ・ 23 日からサミット本番前までは、基本的に各モスクとも午前 8 時 30 分から日没後の礼拝が終了する午後 7 時 30 分を目処に拠点員、行確員を配置し、モスク動向の把握、モスクへの新規出入者及び不審者の発見把握に努める。
- ・ サミット本番時は、配置時間を前倒しするとともに視察解除はサミット行事関係を考慮して別命としたい。
- ・ 日々の情勢に柔軟に対応することとしたい。

Appendix 4-2

Heisei 20 [2008] June 18
Third Foreign Affairs Division • Mosques

Mosque Monitoring System after June 23rd

1. Targets that require special caution

At this moment, there is no target that require special caution selected by the mosque squad

2. Mosque Monitoring System

① Mosque Squad System

43 persons including Assistant Chief Manager

② Mosques to be monitored (7 mosques)

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Note from Attorney Team:
Names of 7 mosques in Tokyo
is listed in the left side.

③ Mosque Monitoring System

- From 23rd to the opening of the Summit, police officers will be stationed in each mosque from around 8:30 am to 7:30 pm when the worship after sunset ends, and try to assess the moves of mosques and detect the new visitors and suspicious persons to the mosques.
- During the session of the Summit, the officers will be stationed early, and the end time of monitoring will be ordered separately considering the events related to the Summit.
- Be flexible with circumstances.

Appendix 5-1: Document Titled “Status of Identification Operation”

解 明 作 業 進 捗 状 況

H 1 9 . 9 . 3
追及捜査第1班

【モスク】

先週の結果 [8 月 2 6 日 (日) ~ 9 月 1 日 (土)]								
1	<p>金曜礼拝視察結果 (8 月 3 1 日)</p> <p>(1) 視察時間 午前 8 時 3 0 分ころから午後 5 時 3 0 分ころまでの間</p> <p>(2) 礼拝時間 午後 1 時 0 0 分ころから午後 1 時 1 5 分ころまでの間 (約 1 5 分間)</p> <p>(3) 礼拝参加者 7 0 名 (全員男性)</p> <table border="0"> <tr> <td rowspan="3">内訳</td> <td>A 対象 [人定判明者 (定期的に参加し、人定が判明している者)]</td> <td>3 4 名 (約 4 9 %)</td> </tr> <tr> <td>B 対象 [追跡可能者 (人定不明なるも、追跡可能な者)]</td> <td>9 名 (約 1 3 %)</td> </tr> <tr> <td>C 対象 [追跡未実施者 (新規参加者を含む)]</td> <td>2 7 名 (約 3 9 %)</td> </tr> </table> <p style="text-align: right;"><u>面割率 (A + B) 約 6 1 %</u></p> <p>(4) 行確結果 新宿署～新宿区 室へ追い込み、事後捜査予定</p> <p>(5) 特異動向 先々週の金曜礼拝に不参加であった は、今回も不参加であった。</p> <p>(6) 参考事項 は、 () であった。</p>	内訳	A 対象 [人定判明者 (定期的に参加し、人定が判明している者)]	3 4 名 (約 4 9 %)	B 対象 [追跡可能者 (人定不明なるも、追跡可能な者)]	9 名 (約 1 3 %)	C 対象 [追跡未実施者 (新規参加者を含む)]	2 7 名 (約 3 9 %)
内訳	A 対象 [人定判明者 (定期的に参加し、人定が判明している者)]		3 4 名 (約 4 9 %)					
	B 対象 [追跡可能者 (人定不明なるも、追跡可能な者)]		9 名 (約 1 3 %)					
	C 対象 [追跡未実施者 (新規参加者を含む)]	2 7 名 (約 3 9 %)						
2	<p>各日のモスク出入り状況 (17:00 ころから翌 8:30 ころまでの間はビデオ解析による)</p> <p>8/26 (日) 以下延べ 1 7 名の出入りを確認</p> <p>8/27 (月) 以下延べ 1 9 名の出入りを確認</p> <p>8/28 (火) 以下延べ 2 8 名の出入りを確認</p> <p>8/29 (水) 以下延べ 2 3 名の出入りを確認</p> <p>8/30 (木) 以下延べ 2 1 名の出入りを確認</p> <p>9 / 1 (土) 以下延べ 1 8 名の出入りを確認</p>							
3	<p>その他</p> <p>(1) 解明結果</p> <p>国籍～バングラディシュ</p> <p>氏名～ 生 (歳) 男</p> <p>住所～新宿区</p> <p>職業～捜査中</p> <p>外登関係～新宿区® 在留資格～</p> <p>(2) 不審者リスト搭載者の動向</p> <ul style="list-style-type: none"> ・ (インド・C 対象) 8/24 (金) 早朝の礼拝からモスクへの出入りを確認しておらず、9 日間モスクへの出入りを確認していない。 ・ (ミャンマー・C 対象) 平日、金曜礼拝とも参加を確認していない。 ・ (バングラデシュ・C 対象) 平日、金曜礼拝とも参加を確認していない。 							
今週の予定 [9 月 2 日 (日) ~ 9 月 8 日 (土)]								
1	視察、基調による実態解明と不審者の抽出、解明作業の推進							
2	拠点防衛の徹底							
3	基礎資料の収集、整備							

解 明 作 業 進 捗 状 況

【モスク】

追及捜査第1班

先 週 の 結 果 [8月19日(日)～8月25日(土)]

3 その他

① キンダーガーデン開園状況(サマースクール)

- 8月27日(月) 参加者50名(内訳)女21名 子29名
- 8月28日(火) 開園状況無し。
- 8月29日(水) 開園状況無し。
- 8月30日(木) 開園状況無し。

② 不審者リスト人物の動向

- ・ (B) 出入り無し。
- ・ (C) 出入り無し。
- ・ (C) 8月28日(火) 21:16 モスク入り
8月29日(水) モスクへの出入りを4回確認。
(10:29 東京メトロ丸の内線 駅にて と合流し、 行きに乗車を確認。)
- 8月30日(木) モスクへの出入りを4回確認。
(の自宅へ2回追い込み。)
- 8月31日(金) モスクへの出入りを1回確認。
(定例金曜礼拝への参加を確認。)
- ・ (C) 出入り無し。
- ・ (C) 毎日定期的な礼拝参加を確認。

今 週 の 予 定 [9月2日(日)～9月8日(土)]

- 1 モスク関係
…継続的なモスクの視察からの出入者の行確及びモスクの動向把握。
- 2 金曜礼拝視察
…公捜隊召集による参加者の行確。
- 3 不審者の基調、行確による解明

Appendix 5-2

Status of Identification Operation

【●●Mosques】

H19(2007). 9.3

The First Tracking Investigation Team

Result of Last Week [August 26 (Sun) ~September 1(Sat)]

1. The result of monitoring of Friday worship (August 31)

- (1) Monitoring Time From around 8:30 am to 5:30 pm
- (2) Worship Time From around 1:00 pm to 1:15 pm (around 15 minutes)
- (3) Number of Worshippers 70 (all men)

Details:

Target A [A person identified (frequented mosques and identified [by the police])]
34 persons (around 49%)

Target B [Trackable person (not identified [by the police] but able to track)
9 persons (around 13 %)

Target C [a person not yet tracked (including new participants)]
27 persons (around 39%)
Recognition Rate (A+B) Around 61 %

(4) Result of Tracking
[Translation Omitted]

(5) Special Trend
[Translation Omitted]

2. Coming and Going to mosques on Each Day (Data from 17:00 to 8:30 is based on the analysis from a surveillance camera)

8/26 (Sun)	[Name of a person] and 17 persons in total come
8/27 (Mon)	[Name of a person] and 19 persons in total come
8/28 (Tue)	[Name of a person] and 28 persons in total come
8/29 (Wed)	[Name of a person] and 23 persons in total come
8/30 (Thu)	[Name of a person] and 21 persons in total come
9/1 (Sat)	[Name of a person] and 18 persons in total come

3. Others
[Translation Omitted]

This week's Schedule [September 2nd (Sun) ~ September 8th (Sat)]

1. Monitoring and Assessment, and selecting the suspicious person. Continue analysis operation.
[Translation Omitted]

Status of Identification Operation

【●●Mosques】

The First Tracking Investigation Team

Result of Last Week [August 26 (Sun) ~September 1(Sat)]

1. The result of monitoring of Friday worship (August 31)

- (1) Monitoring Time From around 11: 43 am to 3:00 pm
- (2) Worship Time From around 1:00 pm to 1:15 pm (around 15 minutes)
- (3) Number of Worshippers 107 (3 females)

Target A [Identifiable person (frequented mosques and identified [by the police])]
78 persons (72.9%)

Target B [Trackable person (not identified [by the police] but able to track)
14 persons (13.1 %)

Target C [Untracked person (including new participants)]
15 persons (14.0%)

Recognition Rate (A+B) Around 86 %

- (4) Result of Tracking
[Translation Omitted]
- (5) Special Trend
[Translation Omitted]
- (6) Reference
[Translation Omitted]

2. Coming and Going to mosques on Each Day

8/26 (Sun) Total 54 persons (Breakdown) 32 men 13 women 9 children

- Identifiable persons 28 (62.2%)
- Trackable persons 0 (0.0%)
- Untracked persons 17 (37.8%)

8/27 (Mon) Total 85 persons (Breakdown) 35 men 21 women 29 children

- Identifiable persons 33 (59.0%)
- Trackable persons 7 (12.5%)
- Untracked persons 16 (28.5%)

8/28 (Tue) Total 56 persons (Breakdown) 38 men 6 women 12 children

- Identifiable persons 27 (61.4%)
- Trackable persons 0 (0.0%)
- Untracked persons 17 (38.6%)

8/29 (Wed) Total 34 persons (Breakdown) 25 men 2 women 7 children

- Identifiable persons 28 (85.2%)
- Trackable persons 0 (0.0%)
- Untracked persons 17 (14.8%)

8/30 (Thu) Total 33 persons (Breakdown) 21 men 2 women 10 children

- Identifiable persons 20 (87.0%)
- Trackable persons 0 (0.0%)
- Untracked persons 3 (13.0%)

8/31 (Fri) Total 133 persons (Breakdown) 112 men 8 women 13 children

- Identifiable persons 87 (72.5%)
- Trackable persons 14 (11.7%)
- Untracked persons 19 (15.8%)

9/1 (Sat) Total 113 persons (Breakdown) 51 men 28 women 34 children

- Identifiable persons 50 (63.3%)
- Trackable persons 3 (3.8%)
- Untracked persons 26 (32.4%)

3. Others

[Translation Omitted]

This week's Schedule [September 2nd (Sun) ~ September 8th (Sat)]

1. Regarding [Name of Place] mosques

••• Continue to monitor visitors to Otsuka mosques and verify their activities. Continue to assess any move in mosque.

2. Monitor Friday Worship

••• Verify activities of participants with other investigation teams

3. Verify and analyze activities of suspicious persons

Appendix 6-1: Document Titled “Current Situation of Muslim Communities”

イスラムコミュニティ現勢

平成20年8月31日現在

イスラム諸国人把握状況

国名	外国人登録者数	把握件数	把握率	国名	外国人登録者数	把握件数	把握率
バングラデシュ	3,348	3,123	93.3%	クウェート	12	23	191.7%
インドネシア	2,736	2,265	82.8%	キルギス	43	22	51.2%
マレーシア	2,268	1,763	77.7%	シエラレオネ	24	20	83.3%
イラン	1,336	1,344	100.6%	ペナン	15	20	133.3%
パキスタン	1,468	1,329	90.5%	パレスチナ	0	19	-
ナイジェリア	640	497	77.7%	オマーン	4	18	450%
トルコ	552	451	81.7%	イエメン	10	17	170%
エジプト	231	237	102.6%	アゼルバイジャン	7	14	200%
ウズベキスタン	223	225	100.9%	アラブ首長国連邦	7	13	185.7%
サウジアラビア	172	192	111.6%	ジブチ	3	12	400%
チュニジア	110	124	112.7%	モザンビーク	3	11	366.7%
アフガニスタン	95	109	114.7%	タジキスタン	6	11	183.3%
ギニア	137	108	78.8%	ブルキナファソ	3	10	333.3%
モロッコ	111	105	94.6%	モルジブ	10	10	100%
イラク	45	84	186.7%	ガボン	4	9	225%
セネガル	84	68	81%	バーレーン	2	8	400%
ウガンダ	100	58	58%	トーゴ	7	5	71.4%
アルジェリア	31	57	183.9%	アルバニア	7	4	57.1%
カメルーン	61	55	90.2%	トルクメニスタン	4	4	100%
シリア	50	53	106%	ガンビア	9	3	33.3%
カザフスタン	44	53	120.5%	モーリタニア	1	3	300%
ヨルダン	32	48	150%	ソマリア	1	1	100%
マリ	41	46	112.2%	ニジェール	2	1	50%
スーダン	27	45	166.7%	チャド	1	1	100%
レバノン	51	40	78.4%	コモロ	0	0	-
リビア	7	29	414.3%	ギニアビサオ	3	0	0%
ブルネイ	10	28	280%	ガイアナ	1	0	0%
カタール	18	28	155.6%	スリナム	5	0	0%
コートジボアール	32	25	78.1%	合計	14,254	12,848	90.1%



イスラム諸団体

イスラミックセンタージャパン(ICJ) ○ 1988年1月15日設立 ○ 宗教法人化～1980年12月15日 ○ 東京都 ○ 東京府 ○ 東京都 ○ 入会金 役員30万円、一般1万円 ○ 月会費 役員1万5千円、一般千円 員会を主催。	在日パキスタン商工会議所【全パキ】 ○ 2006年7月25日認可 ○ 東京都 ○ 東京都 ○ 東京都 ○ 東京都
フルフル・ハイトセンター(宗派 シアア派) ○ 1988年12月9日設立 ○ 東京都 ○ 東京都 ○ 日本人のイスラム教入信証明、婚姻証明書の発行、離婚問題等の相談にも応じている。	在日インドネシアムスリム協会KELUARGA MASYARAKAT ISLAM INDONESIA(KMI) ○ 平成00年0月開設 ○ 東京都 ○ 東京都
日本ムスリム協会 ○ 1952年に設立 宗教法人登録～1968年6月1日 ○ 東京都 ○ 東京都 ○ 東京都 ○ 東京都	在日インドネシアムスリム協会下組織 在日本統一マレー人国民組織クラブ【KELAB UMNO JEPUN(KUJ)】略称～日本UMNOクラブ ○ 東京都 ○ 東京都 ○ 東京都 ○ 東京都
在日パキスタン協会 ○ 1977年3月19日設立 ○ 東京都 ○ 東京都 ○ 東京都 ○ 東京都	全日本パキスタン協会 ○ 平成12年12月12日開設 ○ 東京都 ○ 東京都 ○ 東京都 ○ 東京都

留学生

施設数	留学生数	把握数	把握率	
大学	117	1,266	397	31%
専門・日本語学校	156	511	400	78%
国際交流会館・寮	42	259	243	94%
留学生支援団体	6	370	310	84%
合計	321	2,406	1,350	56%

NGO・NPO 50団体

日本ウイグル協会～世界ウイグル会議の日本支部として平成20年6月に発足。日本人支援者を中心にウイグル民族運動を展開。

日本・イスラエル・パレスチナ学生会議～毎年夏期にイスラエルとパレスチナから学生を招致し、学生会議を開催。

日本イラン協会～日本とイラン本国との友好親善関係の促進。

ハラールフード

国籍別	ハラールフード	ハラール合計
対象国	バングラデシュ 14	64
	パキスタン 4	52
	トルコ 1	19
	その他 3	18
	インド 3	44
非対象国	ネパール 3	23
	日本 1	52
	その他 5	23
合計	34	295

化学剤

店舗数	七品目取扱店舗数	
薬局	6619	2236
ホームセンター	135	108
園芸店	672	343
農協	93	66
塗料店	249	96
サーフショップ	100	69
その他	1797	215
合計	9665	3133

中古車

経営者国籍別	店舗数
パキスタン	151
バングラデシュ	32
イラン	15
その他	16
合計	214

貿易会社

経営者国籍別	会社数
パキスタン	60
イラン	51
バングラデシュ	26
トルコ	10
その他	15
合計	162

ホテル

対象宿泊施設総数	849
外国人の宿泊利用あり	724
内訳	
対象国人の利用あり	420
非対象国人の利用のみ	304
外国人の宿泊利用なし	125

Attachment 6-2: English translation of a document titled “Current Situation of Muslim Communities” (Excerpt)

Assessment conditions of people from Islamic countries

country name	the number of alien registration	the number of assessed Individuals	Assessment Rate	country name	the number of alien registration	the number of assessed individuals	Assessment Rate
Bangladesh	3348	3123	93.3 %	Kuwait	12	23	191.7 %
Indonesia	2736	2205	82.8 %	bania	43	22	51.2 %
Malaysia	2268	1763	77.7 %	Sierra Leone	24	20	83.3 %
Iran	1336	1344	100.6 %	Benin	15	20	133.3 %
Pakistan	1408	1329	90.5 %	Palestine	0	19	-
Nigeria	640	497	77.7 %	Oman	4	18	450 %
Turkey	552	451	81.7 %	Yemen	10	17	170 %
Egypt	231	237	102.6 %	Azerbaijan	7	14	200 %
Uzbekistan	223	225	100.9 %	United Arab Emirates	7	13	185.7 %
Saudi Arabia	172	192	111.6 %	Djibouti	3	12	400 %
Tunisia	110	124	112.7 %	Mozambique	3	11	366.7 %
Afganistan	95	109	114.7 %	Tajikistan	6	11	183.3 %
Guinea	137	108	78.8 %	Burkina Faso	3	10	333.3 %
Morocco	111	105	94.6 %	Maldives	10	10	100 %
Iraq	45	84	186.7 %	Gabon	4	9	225 %
Senegal	84	68	81 %	Bahrain	2	8	400 %
Uganda	100	58	58 %	Togo	7	5	71.4 %
Algeria	31	57	183.9 %	Albania	7	4	57.1 %
Cameroon	61	55	90.2 %	Turkmenistan	4	4	100 %
Syria	50	53	106 %	Gambia	9	3	33.3 %
Kazakhstan	44	53	120.5 %	Mauritania	1	3	300 %
Jordan	32	48	150 %	Somalia	1	1	100 %
Mali	41	46	112.2 %	Niger	2	1	50 %
Sudan	27	45	166.7 %	Chad	1	1	100 %
Lebanon	51	40	78.4 %	Comoros	0	0	-
Libya	7	29	414.3 %	Guinea-Bissau	3	0	0 %
Brunei	10	28	280 %	Guyana	1	0	0 %
Qatar	18	28	155.6 %	Suriname	5	0	0 %
Cote d'Ivoire	32	25	78.1 %	total	14254	12848	90.1 %

Owners of Used Car Shops

Nationality of owner	Number of shops
Pakistan	151
Bangladesh	32
Iran	15
Others	16
total	214

Trading Company

Nationality of owner	Number of companies
Pakistan	60
Iran	51
Bangladesh	26
Turkey	10
Others	15
total	162

Foreign Students

	Number of facilities	Number of foreign students	Number of assessed students	Assessment rate
University	117	1266	397	31 %
Special school/ Japanese language school	156	511	400	78 %
international exchange hall/ Dormitory	42	259	243	94 %
Support group for overseas students	6	370	310	84 %
total	321	2406	1350	56 %

Hotel

Total number of accommodations		849
number of the accommodations in which foreign people stay		724
Breakdown	Target countries people stay	420
	Target countries people never stay	304
Number of the accommodations in which foreign people never stay		125

Halal foods shop

	Nationality	Halal food	Halal restaurant	Total
OIC countries	Bangladesh	14	64	78
	Pakistan	4	52	56
	Turkish	1	19	20
	Others	3	18	21
Non-OIC countries	India	3	44	47
	Nepal	3	23	26
	Japan	1	52	53
	Others	5	23	28
total		34	295	329

[Appendix7-2] A Sample of Résumés-like Page

Classification						No.	
Nationality (Domicile)	_____			Place of Birth	_____		
Name	_____			Male	Date of Birth (Age)		
				Female			
Current Address	_____						
Place of Employment (Address)	_____						
Vehicle	_____						
Suspicious	_____					Profile Picture (August 2004)	
Response Status and Policy	_____						
Familial Relationship and Acquaintances	Relationship	Name	Date of Birth (age)	Place of Employment	Address (Same/ Separate) If separate address		
	Wife	_____	_____	_____	<input type="radio"/> Same <input type="radio"/> Separate		
	Child	_____	_____		<input type="radio"/> Same <input type="radio"/> Separate		
	Child	_____	_____		<input type="radio"/> Same <input type="radio"/> Separate		
	Child	_____	_____		<input type="radio"/> Same <input type="radio"/> Separate		
					Same Separate		
					Same Separate		
Entry and Residence Related	Date of Entry	_____	Passport Number	_____	Passport Issue Date	_____	
	Residence Status	Permanent Resident	Address at Home Country		_____		
	Duration of Residence (Residence Status)		Registry Date		Municipality of Residence	Registration Number	
	_____		_____		_____	_____	
History of Addresses, Schooling, and Employment	Duration	History of Address		Duration	History of Schooling and Employment (Address)		
	_____	_____		_____	_____		
Licenses	Type of License		Date Obtained		License Number		
Criminal Information	Date of Arrest		Offense		Station of Arrest	Outcome	
Affiliated Organisations				Position, Post, Role	Physical Characteristics		
Comings and Goings at Mosques	_____					Height	_____
						Build	_____
Visited and Frequented Locations						Hair	_____
						Beard	_____
Summary of Behavioural Patterns						Eye Glasses	
						Date	2008. Nov. 7

Note: Personal information is masked by the Attorney Team.

Appendix8-2: Document Describing “1 Particulars of Identity” and “2 Information on Suspicions”

1. Particulars of Identity

(1) Nationality: [REDACTED]

(2) Name: [REDACTED]

(3) Date of Birth: [REDACTED]

(4) Passport Number: [REDACTED]

(5) Residence Status: [REDACTED]

(6) Employment: [REDACTED]
Address: [REDACTED]

(7) Place of Birth: [REDACTED]

(8) Address at Home Country: [REDACTED]
Telephone Number at Home Country: [REDACTED]

(9) Address in Japan: [REDACTED]
[REDACTED]

(10) Mobile Phone Number in Japan: [REDACTED]
Home Phone Number in Japan: [REDACTED]

(11) Family: [REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

(12) Entry and Departure History in Japan [REDACTED]
[REDACTED] [REDACTED]

(13) Accessed Mosques: [REDACTED]

2. Information of Suspicions

(1) Information [REDACTED]

(2) [Translation Omitted]

Note: Personal information is masked by the Attorney Team.

Appendix9: Document Indicating Information Sharing With the FBI

SECRET
Not to be discussed with third countries

Jan. 25 2009
Ref. No. 03- -09

Subject: [REDACTED]

1. Identification

Nationality : [REDACTED]
Name : [REDACTED]
Date of Birth : [REDACTED]
Passport Number : [REDACTED]
Status : Permanent [REDACTED]
Address in Japan : [REDACTED]
Occupation : [REDACTED]
Family : [REDACTED]
Place of Birth : [REDACTED]
Home Address : [REDACTED]
Phone Number : [REDACTED]
Immigration Record : [REDACTED]

2. Family and Background of [REDACTED]

(1) Parents and brothers / sisters

[REDACTED]

(2) Before the entry

[REDACTED]

(3) After the entry

[REDACTED]

SECRET
Not to be discussed with third countries

Note: Personal Information is masked by the Attorney Team.

Appendix10: Translation of the Tokyo District Court's Judgment on January 15 2014

Country of jurisdiction: Japan
Court: Tokyo District Court
Division: Civil 41st Division
Judge: Masamitsu Shiseki (Presiding Judge)
Soichiro Shindo
Humiyasu Miyasaki
Date of Judgment: 15 January 2014
Case Number: Heisei 23 (2011) Wa (Civil Case) No.15750, Heisei 23 (2011) Wa (Civil Case) No.32072 and Heisei 24 (2012) Wa (Civil Case) No.3266

Judgment

Main Text

1. The defendant Tokyo metropolitan government shall pay to each plaintiff, with the exception of plaintiff 4, money in the amount of 5.5 million yen as well as money accruing therefrom at an annual interest rate of 5% during a period starting from 26 July 2011 up to a date when the payment will be completed.
2. The defendant Tokyo metropolitan government shall pay to plaintiff 4 money in the amount of 2.2 million yen as well as money accruing therefrom at an annual interest rate of 5% during a period starting from 26 July 2011 up to a date when the payment will be completed.
3. The plaintiffs' other claims against the defendant Tokyo metropolitan government, as well as their claim against the defendant Japanese government, are dismissed.
4. The defendant Tokyo metropolitan government shall pay half of the plaintiffs' court costs and half of the defendant Tokyo metropolitan government's court costs, and the plaintiffs shall pay the remainder of the court costs incurred by the plaintiffs and the defendant Tokyo metropolitan government, as well as the defendant Japanese government's court costs.
5. Only the preceding paragraphs 1 and 2 can be provisionally executed in the present judgment.

Facts and Reasons

I. Claims

The defendants shall jointly pay to each plaintiff 11 million yen as well as money accruing

therefrom at an annual interest rate of 5% during a period starting from 26 July 2011 up to a date when the payment will be completed.

II. Outline of the Facts

1. In this case, the plaintiffs, who are Muslims, submitted that The Metropolitan Police Department (MPD), as well as the National Police Agency (NPA) and the National Public Safety Commission (NPSC): (i) encroached upon the plaintiffs' constitutional rights including the freedom of religion through the surveillance of mosques etc., as well as collecting, storing and using personal information in a manner that violates the Protection of Personal Information Held by Administrative Agencies Act (hereinafter referred to as the '**Protection Act**') as well as the Tokyo Metropolitan Ordinance for the Protection of Personal Information (hereinafter referred to as the '**Protection Ordinance**'); and (ii) subsequently, by breaching their duty of care etc. in information management, allowed the personal information to leak onto the Internet, and furthermore failed to take appropriate measures to mitigate the damage; both of which are illegal for the purposes of the State Compensation Act. The plaintiffs claimed damages of 11 million yen each, as well as money accruing therefrom at an annual interest rate of 5% during a period starting from 26 July 2011, the day after service, up to a date when the payment will be completed, against the defendant Tokyo metropolitan government, the entity liable for the Metropolitan Police Department, as well as the defendant Japanese government, the entity liable for the National Police Agency and the National Public Safety Commission.

2. **Undisputed Facts** (facts that are not in dispute between the parties, or readily follow the attached evidence or the pleadings in their entirety)

(1) **The plaintiffs**

The plaintiffs are all Muslims, and their nationalities are as follows.

Plaintiffs : Japan;

Plaintiffs : The Republic of Tunisia (hereinafter '**Tunisia**');

Plaintiffs : The Democratic People's Republic of Algeria (hereinafter '**Algeria**');

Plaintiffs : The Kingdom of Morocco (hereinafter '**Morocco**');

Plaintiff : The Islamic Republic of Iran (hereinafter '**Iran**').

(2) **Occurrence of the Leak Incident**

On or around 28 October 2010, 114 articles of data (1 through 114 in Exhibit A-1, hereinafter referred to as '**the Data**') were posted on the Internet through the file exchange software Winny (Exhibits A-2 and A-3. Hereinafter this incident is referred to as the '**the Leak Incident**'). As of 25 November 2010, the Data had been downloaded

onto more than 10,000 computers in over 20 countries and regions (Exhibit A-5).

(3) **Summary of the Plaintiffs' Descriptions in the Data**

In addition to numerous data regarding countermeasures against international terrorism, including a document marked "Outline for Reinforcing Reality Assessments" dated 10 September 2007, the Data contained A4- sized pages resembling résumés (hereinafter referred to as the '**Résumé-like Page**') with the nationality, birthplace, name, gender, date of birth (age), current address, place of employment and vehicle for each of the plaintiffs (with the exception of plaintiffs 1, 4, 13 and 17) and others. It also included information such as their date of entry, passport number and issue date, residence status, address at home country, duration of residence, registry date, municipality of residence and registration number (only the passport number, issue date and duration of residence for plaintiff 2) listed under the heading "Entry and Residence Related"; their history regarding residence address, schooling and employment in Japan under "History of Addresses, Schooling and Employment"; as well as e.g. height, build, and the presence or absence of hair, beard, or eyeglasses under "Physical Characteristics"; names, dates of birth, employers and addresses of family members, except for one individual outside this suit, under "Familial Relationships and Acquaintances"; and for some, the type, date obtained and number for their licenses under "Licenses"; date of arrest, offence, station of arrest and outcome under "Criminal Information"; as well as sections titled "Suspicions", "Response Status and Policy", "Affiliated Organisations", "Status, Positions and Roles etc.", "Comings and Going at Mosques", "Visited and Frequented Locations", "Summary of Behavioural Patterns", of which "Suspicions" and "Response and Policy" were recorded for all individuals, but other sections recorded for only some individuals, and with a profile picture attached (11(1) and (20), 1 (12) of Exhibit A-1).

Plaintiff 1's name, date of birth, employer and address was noted as the husband of plaintiff 2 under the "Familial Relationships and Acquaintances" section of the latter's Résumé-like Page, and plaintiff 4's name, date of birth and address was entered as the wife of plaintiff 3 under the same section of plaintiff 3's Résumé-like Page (11(5) and (14) of Exhibit A-1).

Although a Résumé-like Page for plaintiff 17 does not exist in the Data, the plaintiff's nationality, name, date of birth, passport number, residence status, employer and its address, place of birth, address at home country, address in Japan, mobile and home telephone numbers, family, entry and departure history in Japan and accessed mosques were recorded as "1 Particulars of Identity", together with a specific and detailed account of exchanges and friendship with a particular Muslim individual under "2 Information on Suspicions" (the document with the headings "1 Particulars of Identity"

and “2 Information on Suspicions” is hereinafter referred to as the ‘**Identity and Suspicions Page**’).

Furthermore, although the Data did not include a Résumé-like Page or Identity and Suspicions Page for plaintiff 13, the surname of Plaintiff 13 appears under the “Suspicions” section on the Résumé-like Pages of plaintiffs 2, 3, 5, 7, 9, 11, 14 and 15 (11(3)-(5), (10), (11), (14), (15), (19) of Exhibit A-1) as well as under the heading “2 Information on Suspicions” in plaintiff 17’s Identity and Suspicions Page (the plaintiffs’ personal information contained in the Data are hereinafter referred to as the ‘**Personal Data**’).

(4) **Investigation of the Leak Incident**

On 29 October 2010, the National Police Agency and the Metropolitan Police Department recognized the Leak Incident and commenced investigations.

The National Police Agency compiled interim findings etc. in December of that year, publishing a document titled “Regarding Interim Findings Etc. on the Case of Data about Countermeasures against International Terrorism Posted on the Internet” (Exhibit A-2), and on the 24th of that month the Metropolitan Police Department published a document titled “Regarding the Case of Data about Countermeasures against International Terrorism Posted on the Internet” (Exhibit A-3), comprising a summary of investigations thus far, etc. Each document mentions an acknowledgement of the fact that the Data contains information with a high probability of having been handled by a member of the police force, but does not disclose specifics of how the Data was removed.

Despite continued investigation by the police regarding the circumstances surrounding the posting of the Data, the details have not been revealed to this day (facts in the public knowledge).

3. Issues and Arguments from the Parties

(translation omitted)

III Judgment of this Court

(1) On Issue 1

(1) Regarding the Manner of Collection etc. of the Data

A) Taking into consideration (4) of the Undisputed Facts, the evidence (1 through 114, 2, 3 and 6 (1) of Exhibit A-1), and the pleadings in their entirety, it can be found that each of the documents that were the bases of the Data was in the possession of the Third Foreign Affairs Division [of the MPD].

B) Taking into consideration the Undisputed Facts, attached evidence and the pleadings in their entirety, the following facts can be found as the specific content of the Data.

a) A Résumé-like Page was created for the plaintiffs with the exception of A-C and 17, listing the items in (3) of the Undisputed Facts, including personal information on each of the plaintiffs including “Comings and Goings at Mosques” (save for plaintiff 12, whose comings and goings at mosques were not observed). As for the specific content of “Comings and Goings at Mosques”, most individuals only had the name of the mosque they attend recorded, but it is stated that plaintiff 2 “instructs women and children in recitation of the Qur’an at Mosque D”; plaintiff E “participated in Friday prayers at Mosque F”; and plaintiff G “partook in Friday prayers and Saturday Arabic lessons at Mosque H, respectively, and these 3 plaintiffs are noted as taking part in religious ceremonies or instructional activities (11(2)-(5), (9)-(11), (14), (15), (18)-(20), and 1(12) of Exhibit A-1).

Notice has also been taken of many of the above plaintiffs regarding friendly relations etc. with a particular Muslim, in the “Suspicious” section of their Résumé-like Pages.

b) Regarding Plaintiff 17, although no Résumé-like Page exists in the Data, an Identity and Suspicious Page was created as per the Undisputed Facts (3). “J” is noted under the sub-heading “Mosque Accessed” in the “1 Particulars of Identity”.

While Identity and Suspicious Pages were created not only for plaintiff 17 but also all plaintiffs other than 1, 4, 13 and 16, entries under its sub-heading “Mosque Accessed” did not differ significantly from entries under “Comings and Goings at Mosques” on the Résumé-like Pages. The “Information on Suspicious” section, in contrast, contains content that specifies and details the information under the “Suspicious” section on the Résumé-like Page. For example, regarding plaintiff 2, as well as the fact that she herself instructs women and children on recitation of the Qur’an, it is noted that plaintiff 1, her husband, holds a lecturer-like position at the mosque, is highly reputable as a Islamic lecturer, and consistently participates in workshops, special prayers, sermons etc., passionately engaging in missionary activities as a couple (15-18, 20, 21, 24-26, 29-31 of Exhibit A-1).

- c) The fact that plaintiff 13's surname appears in the "Suspicions" section of the Résumé-like Page for plaintiffs 2, 3, 5, 7, 9, 11, 14 and 15, as well as under the "2 Information on Suspicions" sub-section of plaintiff 17's Identity and Suspicions Page, is as stated in (3) of the Undisputed Facts. Of those, in the "Suspicions" section for plaintiffs 2, 3, 5, 9, 11, 14 and 15, it is noted to the effect that they are or were acquaintances of plaintiff 13. In addition, on the Identity and Suspicions Page (19 of Exhibit A-1) of a Muslim individual outside this lawsuit, it is recorded as a result of direct questioning that said individual was asked by plaintiff 13 to deliver some cash, possibly terrorism funds, that was collected by the said plaintiff and sent it to another Muslim individual by hiding it inside an electric rice cooker; as well as the plaintiff's statement that despite *Jihad* obligations being waived due to heart complications, "I would go too, if needed"; as well as the name of plaintiff 13's wife and prefecture of residence.
 - d) That plaintiff 1 is plaintiff 2's, and plaintiff 4 is plaintiff 3's respective spouse, and that their names, dates of birth and such were recorded in the "Familial Relationships and Acquaintances" section of plaintiffs 2 and 3's Résumé-like Pages, is as stated in (3) of the Undisputed Facts. Also, plaintiff 1, as per above (b), was noted for his passionate missionary activities with his spouse in the Identity and Suspicions Page of plaintiff 2.
 - e) Further, considering the fact that the Résumé-like Pages created on the plaintiffs in above (a), (with the exception of plaintiff 16), (11(2)-(5), (9)-(11), (14), (15), (18)-(20) of Exhibit A-1), display a document date of 7 November 2008, and the Résumé-like Page created on plaintiff 16 (12 of Exhibit A-1) displays a document date of 2 October of the same year, and assuming that the Identity and Suspicions Pages, which are included in the Data just like the above Résumé-like Pages and share commonalities in their headings, were created around the same time, it can be found that the information in both the Résumé-like Pages and the Identity and Suspicions Pages were collected before November 2008, approximately.
- C) Next to be considered are the circumstances of how each of the above information was obtained.
- a) According to evidence (8 and 50 through 53 of Exhibit A-1) and the pleadings in their entirety, the Metropolitan Police Department was engaging in efforts to assess the state of Islamic communities at the risk of exploitation as terrorist infrastructure by November 2005 at the latest, said

efforts being undertaken at locations such as the Iranian Association, Arabic Islamic Institute, Tokyo Camii, Shin-Okubo Mosque, Otsuka Mosque, and Ikebukuro Mosque. The Metropolitan Police Department, in order to prevent international terrorism accompanying the Hokkaido Lake Toya Summit held from 7 July 2008 to the 9th of that month, had, since 23 June of that year, organised a “Mosque Squad” of 43 agents with the mission of “detecting suspicious activities of mosque attendants”, designated K, L, M, N, O, P, Q and R mosques as “Mosques for Inspection”, and for each of those mosques, stationed ground staff and behaviour-monitoring personnel from roughly 8:30 am, until the end of evening prayers at 7:30 pm, with the objective of detecting and observing new arrivals and suspicious individuals at the mosques. Of the plaintiffs on whom Résumé-like Pages were created (all plaintiffs with the exception of plaintiffs 1, 4, 13 and 17), their Résumé-like Pages, except for plaintiff 12, noted the name of the mosque they frequented as well as participation, if any, in religious ceremonies or instructional activities under “Comings and Goings at Mosques”, as found in the above B (a); and the Identity and Suspicious Page created for plaintiff 17 listed Mosque J as “Mosque of Attendance” as found in the above B (b). In light of these facts, it can be assumed that for the plaintiffs, with the exception of plaintiff 12, information regarding their comings and goings at mosques and participation in religious ceremonies or instructional activities were collected by agents directly engaging in assessment activities (the monitoring of the plaintiffs regarding matters such as mosque access are hereinafter referred to as ‘**Mosque Monitoring Activities**’).

Furthermore, the Metropolitan Police Department had been engaging in the collection of terrorism-related information etc. in cooperation with relevant agencies and businesses etc. (Exhibit C-1), and as it has been found that some of the plaintiffs had themselves been directly contacted or searched etc. (1, 2, 5, 7-9, 11, 13, 17 of Exhibit C-34), it can be assumed that the remainder of the information had been gathered through their receipt from relevant agencies such as the Immigration Bureau under the Ministry of Justice etc., or contacting and searching the plaintiffs as above.

- b) Incidentally, the plaintiffs allege that the Metropolitan Police Department and the National Police Agency had, as of 31 May 2008, assessed and digitalised the personal information of “roughly 12,677 individuals”

equalling “roughly 89% of the 14,254 foreign nationals from Muslim countries registered in Tokyo”, and later, by the Hokkaido Toya Lake Summit convened July of that year, had “profiled roughly 72,000 individuals from OIC (Organisation of the Islamic Conference) countries (assessment rate of 98%)”, assessed the attendance of 3639 individuals by continuous surveillance at mosques, and conducted Information Gathering Activities regarding the names, locations, and financial situation etc. of Islamic-related organisations etc. However, in this lawsuit, the issue is simply whether or not the plaintiffs suffered damage through the illegal exertion of public authority carried out against them, so whatever information-gathering activities that may have been conducted in relation to Muslims and Islamic-related organisations other than the plaintiffs cannot be said to influence the judgment in this case.

In addition, the plaintiffs allege to the effect that the Metropolitan Police Department (i)established a relationship with 4 major automobile rental dealerships headquartered in Tokyo whereby they could receive user information without a referral document and had that information submitted; (ii)had hotels reinforce their retention of foreign passport photocopies; (iii)acquired the history of paycheck deposits for staff working at the Iranian embassy, from Tokyo Mitsubishi Bank (currently Mitsubishi Tokyo UFJ Bank); and (iv)obtained a roster of foreign students from the administrators at the Tokyo University of Agriculture and Technology as well the University of Electro-Communications, assessed the personal information of students from Muslim countries, and collected information on Muslims and Islamic-related organisations etc. However, there is inadequate evidence to find that the plaintiffs in this case had their information acquired by the Metropolitan Police Department through such methods.

- c) Accordingly, it is fair to observe that the Data, by and large, was gathered in the manner of above (a).
- D)** On this point, the defendant Tokyo metropolitan government argues to the effect that the cause of action against said defendant is not identified with sufficient specificity, as the plaintiffs have not made individual and concrete arguments on the question of what measures and methods the Metropolitan Police Department officers employed in collecting particular personal information of the plaintiffs, instead alleging unconstitutionality in the relationship between the nationwide

police forces, including the Metropolitan Police Department, and all Muslims including the plaintiffs. The defendant Japanese government also argues to the effect that the plaintiffs' allegations are unfounded as it is unclear what breach of official duty they are alleging. Although it is true that the plaintiffs' allegations regarding the Information Gathering Activities contain sections that question the relationship *vis-a-vis* all Muslims including the plaintiffs, by redrawing this in terms of a relationship with the plaintiffs, it can be understood that they are arguing facts including the facts found and held in above (c). Considering that it is an undeniable fact that the plaintiffs' personal information was collected by police officers in one way or another, and that it may well impose hardship upon the plaintiffs to require precise identification of the measures and methods through which personal information of each individual plaintiff was gathered, the above degree adequately identifies the cause of action. Therefore, the defendants' foregoing arguments cannot be accepted.

(2) On whether the Information Gathering Activities violate the plaintiffs' freedom of religion under the Constitution (Article 20, Clause 1)

A) In light of the fact that the essence of the freedom of religion guaranteed under Article 20, Clause 1 of the Constitution is to preclude coercion by the State against sentiments and actions of believing in the existence of supernatural or superhuman beings and worshipping them in awe, it can be understood that prejudicial treatment in a legal or practical sense, or the existence of restrictive elements such as coercion, impediments or limitations, must be present in order to be able to say that one's freedom of religion was violated by the State. The Information Gathering Activities in the manner of above (1)iii were ultimately voluntary information gathering activities, not in themselves subjecting individuals to prejudicial treatment by reason of religious convictions, or imposing coercion, impediments or limitations in a religious way.

On this point, the plaintiffs allege to the effect that as the names of the plaintiffs' membership organisations and mosque of attendance etc. were particularised on the Résumé-like Pages, and as the objective substance of the Information Gathering Activities was to conjecture and identify individuals' faith, it thereby violated the freedom of religion. However, setting aside the fact that the State and public entities are banned from forcing individuals to profess their faith or demand proof of their faith, such as which religious organisation they are affiliated with, the information-gathering activities conducted to assess the plaintiffs' comings and goings at mosques merely involved agents going to the

mosques themselves and recording the plaintiffs' access from plainly observable external acts. In light of this mode taken by the Information Gathering Activities, it in itself did not possess an effect of coercion etc. against religion, as explained earlier. Therefore, it cannot be said that such activities come under the prohibition in relation to religious liberties. As a premise of the above allegation, the plaintiffs argue that the very attempt of State apparatuses to covertly conjecture individuals' faith is precluded in relation to the freedom of religion, but as explained below, the Information Gathering Activities were not conducted with the aim to conjecture individuals' faith. Therefore, it must be said that the plaintiffs' argument is unfounded.

The plaintiffs further allege that the Information Gathering Activities run the risk of labeling Islam as a religion that is not tolerated by society, thereby greatly prejudicing those who practice it. It is true that some of the plaintiffs, because of the information leak, were forced to resign from their occupation, or suffered economic loss by reasons such as a dramatic drop in sales at the stores they manage (6, 9, 10, 13 and 16 of Exhibit A-34). However, as these disadvantages were not due to the Information Gathering Activities themselves but the information in question leaking through the Incident, violations or restrictions on religious liberties by the Information Gathering Activities cannot be recognised based on the above disadvantages.

The plaintiffs further argue that it is understandable to hesitate from convening at the religious institutions in question under the circumstances of complete surveillance by the police, and that in reality, as seen in documents created by the police (51 of Exhibit A-1), the realisation that they were surveillance targets in the security measures etc. related to the Summit, which was implemented as a part of the surveillance of religious institutions, caused many Muslims to decline from attending mosques, with the effect of suppressing the prayers at the end of Ramadan, an important religious duty in Islam.

However, the above police document indicated by the plaintiffs (51 of Exhibit A-1) merely reports that worshippers during the 2008 Ramadan period increased drastically in comparison to the previous year, and that the cause may be attributed to Muslims in Japan, who had pulled back because of increased security in Tokyo incidental to the series of security measures related to the Hokkaido Toya Lake Summit, newly participating in religious services, in relief that no acts of terrorism in the name of Islam occurred in Japan during the Summit period. It does not note that worshippers during the 2007 Ramadan period decreased due to

police surveillance activities at religious institutions. Furthermore, the plaintiffs, at least in their arguments, have not articulated the degree to which they were aware of the Information Gathering Activities, particularly the Mosque Monitoring Activities. Moreover, their testimonies do not adequately support their cognisance of the Mosque Monitoring Activities. Plaintiffs 3, 5, 8, 11, 15 and 17 have testified that they saw police officers near the mosque they attended, with some testifying that they observed police officers entering the mosque. However, with the exception of one plaintiff who specified this as occurring after the Incident, the timing is unclear, and it cannot be determined whether they had noticed police officers before the Incident (24 (3), (5), (8), (11), (15), (17) of Exhibit A-3). While plaintiff 1 testifies of sensing on numerous occasions an atmosphere of surveillance at the S Institution, he has not testified to knowledge of the fact that the surveyors were police officers (34(1) of Exhibit A-1). What is more, none of these plaintiffs have testified of an actual chilling effect such as being effectively forced to cancel their participation in religious ceremonies at the mosques. As such, the plaintiffs' above arguments cannot be accepted.

B)

- a) The plaintiffs allege that the Metropolitan Police Department, by a comprehensive surveillance of mosques targeting important religious ceremonies such as Friday prayers and Ramadan, discouraged Muslims from religious activities and suppressed attendance at mosques, violating the purpose of the Religious Corporations Act Article 84, which reflects Article 20 of the Constitution, and amounting to oppression and interference against the freedom of religion. However, there are inadequate grounds to hold that the plaintiffs were discouraged from religious activities or that attendance at the mosques were suppressed due to the Mosque Monitoring Activities, as recognised in Part i above, so this argument by the plaintiffs cannot be accepted either.
- b) It cannot be denied that the timing of some plaintiffs' witnessing police officers around or inside the mosques they attend may have preceded the Incident. However, the plaintiffs are alleging to the effect that because the Metropolitan Police Department and the National Police Agency, under the name of counterterrorism, collected information exclusively on ordinary Muslims, the Information Gathering Activities were not a necessary gathering of information to prevent terrorist acts, instead amounting to oppression and interference against religious liberties. In view of the

significance of the freedom of religion as one of the constitutionally guaranteed freedoms of spirit, the court will also rule on this point for confirmation.

- c) The Data contains expressions at various points suggesting that it was created as a countermeasure against international terrorism, such as entry to the effect that the assessment of the current situation surrounding persons from Muslim countries and Muslims in Japan is promoted as “countermeasures against international terrorism (4 of Exhibit A-1), and according to the attached evidence as well as the pleadings in their entirety, the following facts can be found in relation to international terrorism.

i. In general, ‘terrorism’ refers to acts such as the killing and harming of humans with the aim to coerce states etc. to accept etc. the specific cause or claim that forms its basis, or to intimidate etc. society (Exhibit B-3), and as of 31 July 2012, 49 organisations including so-called radical Islamic groups such as Al Qaeda, Hezbollah, Jemaah Islamiyah, and Lashkar-e Taiba, were designated by the United States government as foreign terrorist organisations that threaten the security of the American people or American national security (defence, foreign relations or economic interests) (1 and 2 of Exhibit B-38, and the totality of the pleadings).

ii. The following incidents of international terrorism had occurred before November 2008, when the Information Gathering Activities took place, just to raise some major recent examples.

(i) On 11 September 2001, simultaneous multiple terrorist attacks took place when 4 passenger aircrafts for US domestic flights were hijacked by 19 young Arab men acting under the orders of radical Islamists, of which 2 crashed into the World Trade Center buildings in New York, USA and 1 into the Department of Defence headquarters in Washington DC, killing about 300 individuals including 24 Japanese nationals and wounding many, leading to the arrest of senior Al Qaeda members. Some of the perpetrators had been residing in the United

States for over a year amongst the ordinary public.

(ii) On 22 December 2001, a British national was apprehended on board an American Airlines flight (197 passengers and crew) from Paris to Miami, found in an attempt to detonate a bomb set inside a shoe. He was a convert to Islam born in London to a British mother and a Jamaican father, and had attended a London mosque in after converting. It was found that suspected perpetrators of the September 11th attacks had been attending the same mosque.

(iii) On 12 October 2002, simultaneous multiple terrorist attacks happened at a bar and disco in Bali, Indonesia, killing 202 including 2 Japanese nationals, and wounding more than 300, including 14 Japanese. Jemaah Islamiyah members were arrested and 11 more were searched for as named suspects. Those who were arrested made statements such as: "I assisted in the manufacturing of bombs in order to kill as many Americans as possible".

(iv) On 12 May 2003, successive explosive terrorist attacks were carried out at 3 foreign compounds in Riyadh, Saudi Arabia by 15 perpetrators with automobile explosives, killing 34 including the perpetrators and wounding 194 including 3 Japanese nationals. The Saudi authorities had just exposed an Al-Qaeda arsenal, seized large amounts of weaponry and issued warrants for 19 suspects including perpetrators of the terrorist plot, 3 of which died implementing the attack.

(v) On 20 November 2003, successive explosive terrorist attacks occurred at the British Consulate General and British bank HSBC in Istanbul, Turkey, in the form of suicide bombings that involved setting explosives in the bed of a truck, killing 30 including the British Consulate General and wounding about 450, with Al Qaeda and like organisations issuing a statement to the effect that they were jointly responsible.

(iv) On 11 March 2004, 10 dynamite explosions happened

almost simultaneously in a terrorist attack on a commuter train in Madrid, Spain, killing 191 and wounding about 1900, the victims belonging to 14 different nationalities. 3 organisations issued statements to the effect of “this is in retaliation for your actions in Iraq and Afghanistan” etc., and 7 detonation devices as well as a tape of verses from the Qur’an recorded in Arabic were seized from the van thought to have been used by the perpetrators.

(iv) On 9 September 2004, an automobile bomb attempted to drive into the Australian Embassy in Jakarta, Indonesia, killing 12 including 1 perpetrator, and wounding more than 180. The same day, an Arabic statement in the name of the East Asian Jemaah Islamiyah was posted on an Islamic website: “Australia joined the invading forces in the war in Iraq. This attack is retaliation against Australia, which is the greatest enemy of God and Islam,” etc. It referred to the attack and demanded the withdrawal of Australian forces from Iraq, to the effect of: “More harm will be inflicted if the demand is not met. The automobile bombs will never cease”.

(viii) On 7 July 2005, simultaneous multiple terrorist attacks (hereinafter referred to as the ‘**UK Simultaneous Multiple Terrorist Attacks**’) were carried out in 3 locations on the Underground in central London and a moving bus, by 4 suicide bombers of British nationality with handmade explosives stuffed in backpacks, killing 56 including the perpetrators and wounding about 700. Al Qaeda etc. issued statements, and a British account indicated that 2 of the perpetrators had possibly been in contact with Al Qaeda, and that the motive for the attack was hostility against unfair treatment toward typical Muslims. The threat of homegrown terrorists and the necessity of understanding British nationals radicalized to the point of carrying out a suicide bombing were cited as lessons to be learned from the incident. ‘Homegrown terrorist’ refers to an individual who had led an ordinary

life in a non-Muslim developed nation but radicalizes by one influence or another, and engages in an act of international terrorism in their country of residence or aimed at interests of a country targeted by radical Islamists, and is recently the focus of attention in many countries due to incidents such as this one.

⊙ On 1 October 2005, successive terrorist attacks occurred at 3 restaurants in busy downtown etc. areas full of Western and other tourists in Bali, Indonesia, killing 23 including 3 perpetrators and 1 Japanese national, and wounding 146.

⊙ On 11 July 2006, a series of multiple terrorist attacks were carried out by setting bombs on 7 crowded trains during rush hour in Mumbai, India, killing 186 and wounding 890. The Mumbai police announced that the Islamic terrorist organisation Lashkar-e Taiba, with the assistance of the Students Islamic Movement of India, was responsible.

In addition to the above, terrorist attacks using explosives have been carried out by radical Islamists in Argentina, the Philippines, Russia, Morocco etc. Incidents of terrorist attacks using nuclear, biological and chemical substances (NBC terrorism) have taken place as well: in 2001, anthrax attacks happened in the United States; in 2002, an American member of Al Qaeda was found to have been plotting an attack on the United States using a 'dirty bomb' that spreads radioactive substances; in 2003, a radical Islamist group in London was found to have possessed substances related to the highly virulent ricin; and in February 2004, ricin was discovered in a Senate Office Building in Washington DC (Exhibits B-10, (1) and (2) of B-14, B-15, B-34-36, (1) and (2) of B-37, (1) and (2) of B-41).

- iii. Japan is an ally of the United States, and carries many US related facilities that radical Islamists have made terrorist

targets. (i) On 6 May 2004, Osama bin Laden's audio statement on an Islamic website said, "The US military has promised handsome rewards to those who kill *Mujahedeen*. We too, offer the following return to those who kill Americans, allies, UN staff etc.", and "500 grams of gold (roughly 700,000 yen) for allies like Japan and Italy"; (ii) On 1 October of the same year, an audio statement of (Al-Qaeda leader) Zawahiri on Al Jazeera said, "We must not silently wait to be invaded by military forces of the US, UK etc. We should wage resistance right away. The interests of the US, UK, Australia, France, Poland, Norway, Korea and Japan are everywhere. These countries are involved in the occupation of Afghanistan, Iraq and Chechnya, and support the existence of Israel"; (iii) On 22 April 2008, Zawahiri's video statement on a Islamic website answered a question from the Associated Press on whether Japan is still an Al-Qaeda target in the following terms: "Japan insists it is cooperating with the West in their activities in Iraq, but are they not also participating in the military crusade against Muslims", and "Japan has become an ally of the US, which has occupied and plundered our land; and which has attacked Japan with conventional and nuclear weapons" (Exhibits B-16, 36 and 39).

Furthermore, in December 2003, the French national Lionel Dumont, an internationally wanted senior member of an Al-Qaeda related organisation, was arrested in Germany, which led to the revelation that he had illegally entered Japan with a counterfeit passport in July 2002 and was hiding in Niigata City. During his stay in Japan, he was known as a serious Frenchman who worked steadily and silently, but suspicions had arisen that he was fulfilling the role of an intermediary linking terrorist organisations in Europe and Southeast Asia, keeping in frequent touch with members of Islamic terrorist organisations headquartered in the UK and France, and

visiting Malaysia, where there is a branch of the radical Islamist group Jemaah Islamiyah. It became clear that another member of a radical Islamic organisation had been temporarily staying in Japan by residing with Dumont, as well as the fact that he was a devout Muslim, never failing to pray five times a day and frequenting mosques at Niigata East Port and Isesaki city in Gunma prefecture. It was found that the account he opened under a false name at the Japan Post Bank had received a few dozen transfers of several thousand to one million yen, and he is suspected to have been raising finances for terrorism and procuring supporters during his time in Japan (Exhibits B-36, C-9).

What is more, in March 2007, it was confirmed that Khalid Sheikh Mohammed, a senior Al Qaeda official in US custody, made a statement that he had been involved in plots, among others, to destroy the American Embassy in Japan. He made a statement to the effect that he had pledged allegiance etc. to Osama bin Laden in order to carry out a Jihad, and served as operations commander to plot, prepare and execute the September 11th attacks, as well as military commander for worldwide operations, directly undertaking the administration and direction of the biological weaponry manufacturing department and management of the 'dirty bomb' operations in the US (Exhibit B-19, (1) and (2) of B-37).

- iv.** Not only do mosques have a religious function of providing for confessions and prayers at the core of Islamic religious activities, but they are also a place for teachings— of instruction on the meaning of the Qur'an, the central religious text, and the *Hadith*— as well as a space of social interaction for Muslims to relax, eat, discourse and enforce communal bonds (from the pleadings in their entirety).

At the same time, the existence of 'home-grown terrorists' has recently caught the attention of many countries as found above in ii (viii), indicating that exposure to radical

ideas and recruitment etc. from radical Islamic groups in prisons or religious institutions possibly contribute to the process of radicalisation. In reality, the perpetrators of the UK Simultaneous Multiple Terrorist Attacks became close to each other through youth activities at mosques etc., and although the crucial factor in their radicalisation is unclear, the possibility has been indicated that they attended lectures, watched videos, and had the opportunity to read literature on radical ideas at local mosques etc. In addition, from 2 June 2006 to the 3rd of that month, the Canadian police arrested 17 individuals and seized 3 tonnes of ammonium nitrate related to, among others, suspected terrorist plots targeting the Canadian Security Intelligence Service headquarters, Canadian Association of Broadcasters, bases of the Canadian Forces, the Toronto Stock Exchange, and the Canadian Federal Parliament Building etc., and including the assassination of the Canadian prime minister. Of the suspects etc., who were all male Canadian residents, six attended the same mosque, engaging in prayers, sporting activities and discussions on Islam with an individual who held a leadership role at said mosque (the eldest of the suspect group), expressing dissatisfaction at the deployment of the Canadian Forces to Afghanistan, and receiving sermons on radical content, which point to the possibility that these were factors in their radicalisation, and the other three had reportedly been attending the same mosque as an Al Qaeda financial supporter in the 1990s (Exhibit C-10 (1)).

It has also been discovered that radical Muslim leaders have engaged in recruitment efforts for suicide bombers at London mosques (Exhibit C-10 (2)).

- d) According to the facts found above in (c), numerous cases of international terrorism had occurred before around 1 January 2008, when the Information Gathering Activities took place, and the substance of the cases demonstrate that foreign terrorist organisations designated by the US government, particularly radical Islamist groups, are responsible for a high percentage of

them. As for the tactics, explosives and chemical substances etc. are used to affect an extremely large number of ordinary citizens regardless of nationality, with fatalities and the wounded reaching up to several hundred to the thousands per incident. In terms of their backgrounds, it can be said that factors such as retaliation for the Iraq War etc. or hostility toward the unfair treatment of Muslims have played a part. Moreover, these incidents of international terrorism have taken place in various regions and countries, extending to Southeast Asia, which is geographically close to Japan.

Further, Japan has been identified by multiple leaders of radical Islamic organisations as a target that is a US ally, participant in the occupation of Iraq etc., and supporter of the existence of the Israeli state. Given the revelation that a senior member of a radical Islamic organisation had been staying in the country without authorisation, and the statement by a senior member of a radical Islamic organisation to the effect that he was involved in a plot to destroy the American Embassy in Japan etc., it can be said that there had been a sufficient danger of an act of international terrorism being carried out in Japan by radical Islamist groups, with even the possibility of several hundred to thousands of civilian deaths.

Even more, considering that the terrorist incidents found in above (c) ii had all been carried out with the involvement of multiple individuals, preparing explosives etc. in advance, and targeting crowded areas with simultaneous or successive blasts, and particularly that several of the September 11th attackers had been residing in the US for over a year amongst the general public until execution of the terrorist plot, it is clear that these attacks were put into action by multiple terrorists, covertly and with a substantial preparatory period, deliberately concealing themselves within society, and pretending to lead ordinary everyday lives, all the while plotting their operation secretly and meticulously. Yet the reality is that terrorist incidents are frequently occurring around the world. Adding to this the fact that recently, there are indications of 'home-grown terrorists' undergoing transformation through contact with radical groups over the Internet or at prisons and religious institutions (above (c) ii(viii), iv), it should be said that it is not an easy task to prevent in advance acts of international terrorism by obtaining information about terrorist incidents before the fact, or detecting terrorists hiding amongst the general public.

Finally, as in the above (iv), for Muslims mosques have a significance not

only in a religious sense but also as a space for communal interaction, and there are indications that recruitment etc. by radical Muslims at religious institutions is one of the possibilities contributing to the process of radicalisation, and in reality, it is suggested that the perpetrators of terrorist incidents in the UK and Canada were recruited while attending mosques. Therefore, the early detection, for the prevention of international terrorism, of terrorists under the guise of ordinary citizens, necessitates an assessment of how Muslims constitute and run their communities. And it follows that there is no other way to discern whether one is a peaceful Muslim or a terrorist belonging to a radical Islamic group other than to make presumptions from various circumstances observable from external manifestations such as their participation, if any, in religious ceremonies or educational activities, and the position they hold in the religious community, which requires the monitoring—continuously to a certain degree—of the state of their activities, through approaching or in some cases entering mosques.

- v. Thus, given the real risks of international terrorist attacks taking place in Japan, the seriousness of the damage once such an act of international terrorism happens, and the complications in early detection and prevention due to its covert nature, assessing the current circumstances of mosque attendees through the Mosque Monitoring Activities and other Information Gathering Activities should be regarded as necessary activities for the police, whose duty is to maintain public safety and order, including the deterrence of crime, to prevent the occurrence of international terrorism.

Lastly, adding to this a consideration of the courses that past incidents of international terrorism have taken, the fact that the Information Gathering Activities primarily target Muslims and that the collected information encompass matters with a religious aspect, namely, comings and goings at mosques, does not take issue with the content of followers' religious faith in Islam in and out of itself, but is instead due to the objective of preventing harm to the general public by detecting and guarding

against international terrorism by radical Muslims, by directing attention to the historic realities such as that radical Islamists, an extremely small subset of Muslims, have perpetrated acts of international terrorism, and that recruitment etc. has been conducted at religious institutions by radical Islamic groups, and not with the intention of meddling in the spiritual and religious aspects of Muslims.

The Mosque Monitoring Activities, as elaborated above, merely recorded external acts— the plaintiffs’ comings and goings at mosques— through personal visits by agents, and as explained in above (1)C, there were no acts amounting to coercion regarding the said records, and moreover, effects on the freedom of religion, if any, did nothing more than invite a sense of repulsion toward the presence of police officers in and around the mosques.

To summarise, the Information Gathering Activities, even if they partially affected some of the plaintiffs’ religious activities, were necessary and inevitable measures for the prevention of international terrorism, and did not violate Article 20 of the Constitution or its derivative, Article 84 of the Religious Corporations Act.

(3) On whether the Information Gathering Activities violate Article 14 of the Constitution

A) The plaintiffs allege that the Information Gathering Activities target Muslims by exclusively directing attention to their religious affiliation, and thereby constitute discrimination based on “creed” that is prohibited by the second sentence in Article 14 Clause 1 of the Constitution.

a) To be sure, of the Data, the document titled “Outline for Reinforcing Reality Assessments” (1 of Exhibit A-1) states that “Muslims with nationalities of the Organisation of Islamic Conference (OIC) countries and others” are “Targets of Reality Assessments”, and accordingly, it can be held that the police, at least at the preliminary stage, determined subjects of the reality assessment by directing attention to whether or not they were Muslims. Therefore, the fact that they had made a distinction in treatment by focusing on faith on this point cannot itself be denied.

Further, as Article 14(1) of the Constitution is interpreted as prohibiting

discriminatory treatment unless there are reasonable grounds corresponding to the nature of the matter (Supreme Court 27 May 1964 Grand Bench, *Civil Cases in the Supreme Court*, Volume 18, Issue 4, Page 676 ; Supreme Court 4 April 1973 Grand Bench, *Criminal Cases in the Supreme Court*, Vol. 27, Issue 3, Page 265 *et alibi*.) As the second sentence explicitly disallows discrimination by reason of “creed”, and in view of the importance of religious freedom as one of the spiritual freedoms guaranteed by the Constitution, it is necessary to examine closely whether or not there is reasonable cause for separate treatment on the basis of religion.

- b) Upon analysis, (i)the Information Gathering Activities primarily targeted Muslims and collected information touching on the comings and goings at mosques, a matter with a religious aspect, not by taking issue with Muslims’ faith itself, but instead by directing attention to the historic realities of international terrorism, and with the intention of preventing harm to the general public by detecting and guarding against international terrorism by radical Muslims, as opposed to meddling in the spiritual and religious aspects of Muslims; (ii)assessing the plaintiffs’ religious activities etc. including circumstances of their mosque attendance through the Information Gathering Activities was a necessary activity for the prevention of international terrorism belonging within police duties; and (iii)what effect this had upon religious liberties of the plaintiffs, if any, remained within the realm of repulsion against the presence of police officers in and around the mosques, as elaborated in the above (2)B(e).
 - c) It then follows that even considering that distinctions were made in this case based on creed as explicitly listed in the second sentence of Article 14(1) of the Constitution, and the weight that freedom of religion carries as one of the freedoms of spirit, the different treatment had reasonable cause, and did not violate the clause in question.
- B) The plaintiffs allege that despite Article 14 of the Constitution guaranteeing the right not to be discriminated against, and the State owing a duty not to promote discrimination when engaging in conduct with the effect of promoting discrimination, the Information Gathering Activities were based on prejudice that Muslims are terrorists or have a high possibility of being one, and amounted to the State conveying a discriminatory message, thereby having the effect of promoting discrimination against Muslims, and violating the plaintiffs’ right not to be discriminated against.

However, as the distinctive treatment in the Information Gathering Activities has reasonable grounds as explained in above A, and as it is clear from the format etc. that the information collected by the said activities was not expected to be disclosed to the outside world, it cannot be said that the Information Gathering Activities in themselves give off a discriminatory message on part of the State.

On this point, the plaintiffs allege that even if it remains information collected and stored by the police, the danger of leaks is omnipresent, and once a leak does take place, it sends a strong message to the public that the police treat Muslims in a discriminatory matter. Yet this points back to the illegality of allowing the leak, and cannot form a basis for the unconstitutionality or illegality of the Information Gathering Activities as strictly construed.

Further, the plaintiffs allege that in light of Articles 13 and 14 of the Constitution, the plaintiffs have a legal interest in not being treated in a discriminatory manner by the State, which was violated by the Information Gathering Activities, but this line of argument cannot be accepted in light of the above explanations.

Therefore, the plaintiffs' above arguments cannot be accepted.

(4) On whether or not the Information Gathering Activities violate the freedom of not having information regarding the content or activities of one's faith collected and managed by government institutions without just reason (Article 13 of the Constitution)

A)

a) That some plaintiffs had their access to mosques or participation, if any, in religious ceremonies and educational activities noted in their Résumé-like Pages, or their missionary passion specifically noted in the "Suspicions" section of the Identification and Suspicions Pages, were found in above (1)B. Not only do these entries suggest that they are Muslims; they go further by indicating the strength of their convictions. Whatever thoughts or beliefs that a person holds are matters that directly affect an individual's interior world and personal autonomy, and is a type of information that is ordinarily unexpected to be disclosed without consent in social life.

b) However, that the prior prevention of international terrorism necessitates assessment of the realities surrounding mosque attendees, and the fact that this can only be achieved in the form of continuous assessment, to a certain degree, of their activities through a presence not only around but at times inside mosques, was explained in above (2)B(d) and (e). Furthermore, as suspicions have arisen that Lionel Dumont, who was arrested in Germany in December 2003, had been obtaining financing for terrorist acts and

engaging in the procurement of supporters while taking cover in Japan under a counterfeit passport as recognised in above (2)B(c), and as the United Nations adopted an international treaty in 1999 regarding the prevention of financial assistance for terrorism, and in light of facts such as that on 22 October 2004, the FATF (Financial Action Task Force on Money Laundering) delivered a special recommendation regarding terrorist financing, providing a nine-point fundamental framework for the detection, prevention and deterrence of terrorism and financial provisions thereof, upon the understanding that actions against financial supplies for terrorism are crucially important ((1) and (2) of Exhibit B-8), it can be said that surveying mosque attendees for terrorist supporters, such as funders of terrorism, is an information-gathering activity necessary for the prevention of international terrorism incidents. If so, it ought to be said that the police, who are under the obligation of maintaining public safety and order under Article 2 (1) of the Police Act, are required to probe and analyse the current state of social affairs, including religious activities, for each person accessing mosques, as a part of information-gathering attempts for the prevention of international terrorism.

At the same time, the Mosque Monitoring Activities took the form of agents themselves going to mosques and observing external conduct readily recognisable from the outside, such as the plaintiffs' comings and goings at mosques and circumstances of their participation in religious ceremonies and educational activities. In this sense, it cannot be said that the plaintiffs' behaviour thus assessed was not at all expected to be recognised by a third party, and even considered in the totality of the Information Gathering Activities, these did not demand the plaintiffs to prove their faith, nor did it impose prejudicial treatment or any coercion, impediments or restrictions in religious terms, their possible effects confined to the plaintiffs' sentiments of repulsion triggered by police presence around or inside mosques.

On this point, the plaintiffs allege that plaintiffs 5 and 16 were subjected to illegal searches and seizures that deviate from and abuse the rules of criminal procedure, in relation to a case with a third party suspect. Indeed, according to the facts (11(4) and 1(4) of Exhibit A-1), it can be found that searches and seizures of mobile phones etc. were conducted against plaintiffs 5 and 16. However, there is insufficient proof that these searches and seizures were illegal, so the plaintiffs' arguments cannot therefore be

accepted.

Additionally, in light of the gravity of the damage once an incident of international terrorism occurs, even considering that the plaintiffs' information gathered through the Information Gathering Activities would not ordinarily be expected to be disclosed without their consent in social life, it should be said that the Information Gathering Activities were necessary and inevitable from the point of view of preventing international terrorism.

- c) Therefore, the plaintiffs' submission that the Information Gathering Activities violated Article 13 of the Constitution cannot be accepted.
- B)** The plaintiffs further allege that the Data contains information of the plaintiffs' nationalities, domicile, criminal history etc., which can be grounds for social discrimination, and thus amounting to sensitive information. Accordingly, they can be understood to be arguing to the effect that the collection of information other than those relating to the substance and activities of their faith also violate the freedom of not having their personal information collected and managed without reason. It can certainly be said that these information amount to the plaintiffs' privacy, with criminal history particularly relevant to a person's honor and reputation.

However, in light of the fact that there is sufficient danger of international terrorism happening in Japan, and the difficulties in its prevention through obtaining information regarding terrorist plots, or detecting terrorists concealing themselves amongst the general public, the Information Gathering Activities are necessary to prevent the occurrence of international terrorist attacks in advance and requires the compilation of various information, as explained above in (2)B. Consequently, even if the plaintiffs had not only information of the substance and activities of their faith but also information regarding their privacy including criminal records etc. collected through the process of the said activities, such constraints are inevitable in light of the above nature etc. of the Information Gathering Activities. What is more, as for the manner of the profiling, it can be conjectured, as elaborated in above (1)C, that the information was collected through cooperation with related agencies or police contact and searches etc. on the plaintiffs, which cannot be called illegal or particularly inappropriate. Hence, the Information Gathering Activities cannot be said to violate Article 13 of the Constitution.

(5) On whether the retention of personal information by the Metropolitan Police Department and

the National Police Agency violate Article 13 of the Constitution

- A) The plaintiffs allege to the effect that the retention of the plaintiffs' personal information, by entry into the police database, itself violates the right not to have information related to an individual disclosed or released to a third party unreasonably, as guaranteed by Article 13 of the Constitution.

However, information-gathering activities are conducted in order to store and analyse the information thus obtained, and it has been previously established that the Information Gathering Activities do not violate Articles 13 and 20 of the Constitution. Because it naturally follows that the police may keep and use for analysis etc., information obtained through legal activities, the possession of said information does not violate Article 13 of the Constitution.

- B) On this point, the plaintiffs allege, among other things, the existence of a specific danger of disclosure or release of personal information to third parties in the event of flaws in the system technology or legal regime of an information management mechanism, citing a 2008 Supreme Court case, and points out that this very case came to light by such a leak, in other words, as a result of the risk of information being readily leaked actually materialising.

However, this allegation merely argues the illegality not of the police's possession of the plaintiffs' personal information in itself, but the fact that the information was disclosed or released to third parties: namely, the occurrence of the Incident. Moreover, although the 2008 Supreme Court case, in considering whether or not the Basic Residential Registers Network System violated the freedom of not having information relating to an individual disclosed or released to third parties unreasonably, assessed, *inter alia*, the specific dangers, if any, of information leaks due to breaches etc. in the mechanics of the System, this derived from the fact that the substance of the claim in said suit focused on a deletion of the resident's card code based on the removal of an impediment against the right to personhood, distinguishable from the present case regarding a claim for State compensation on the premise that a leak has actually happened, and therefore it cannot be appropriately applied to this case.

- C) Therefore, the plaintiffs' argument cannot be accepted.

(6) On whether or not there is a violation of the due process principle

The plaintiffs argue that the continuous, systematic, comprehensive, and large-scale collection, storage and use of personal information as in the Information Gathering Activities require a law that explicitly states specific objectives and standards to be met, and that Article 2 (1) of the Police Act does not serve as such a basis.

However, in light of the fact that Article 2 (1) of the Police Act designates the “prevention of crime” and “otherwise maintaining public safety and order” as police duties, the various police activities these necessitate should generally be tolerated as long as they are voluntary measures without compulsion, and it has already been established that the Information Gathering Activities are necessary activities in light of the above duties.

When the information to be collected relate to matters that risk interference with people’s rights and freedoms, activities for the collection of such information should not be permitted unconditionally. However, the Information Gathering Activities are necessary and inevitable from the viewpoint of preventing international terrorism, as also previously explained.

Therefore, the plaintiffs’ above argument cannot be accepted.

(7) On whether or not the gathering, retention and usage of the Personal Data violate the Act on the Protection of Personal Information

(translation omitted)

(8) On whether or not the gathering, retention and usage of the Personal Data violate the Local Ordinance on the Protection of Personal Information

(translation omitted)

(9) Summary

Consequently, as no part of the collection, storage or use of personal information by the Metropolitan Police Department and the National Police Agency can be found unconstitutional or illegal, no illegality can be found for the purposes of the State Compensation Act.

2. On Issue 2

(1) Illegality, for the purposes of the State Compensation Act, of the defendant Tokyo metropolitan government’s conduct regarding the Incident

A) Firstly, although each of the reports made by the National Police Agency and the Metropolitan Police Department in December 2010 noted that the Data includes information with a high probability that they were handled by members of the police, it was not revealed specifically how the Data was removed to the outside. Police investigation into the course of the posting of the Data continued further, but the details have still not been made clear to this day, as in (4) of the Undisputed Facts.

To be sure, each of the documents that were the bases of the Data had been in the possession of the Third Foreign Affairs Division, as found in 1(1)A above. Also, as a result of wide-scope and intensive investigations conducted in an effort to solve the case, each of the reports mentioned earlier (Exhibits A-2, A-3) take note of revelations e.g. that some of the computers used in the Third Foreign Affairs

Division lacked sufficient controls, including that of the history of external memory media usage, and that the fact that removal of the information using external memory media was possible cannot be denied. This description assumes that the Data was removed from the computers used in the Third Foreign Affairs Division using external memory media, without any mention of other possibilities such as hacks by outsiders, and there is no particular evidence suggesting such alternative scenarios.

In light of this, it is fair to regard the Data as having been removed using an external memory media by a member of the police (most likely a Metropolitan Police Department employee, considering the fact that according to Exhibit A-5, access to the exclusive folder that the Data was saved in was limited to the direct administrator and senior officers).

B)

- a) Then, in considering the negligence of the Metropolitan Police Department in the Incident originating from such an act of removal, as the most newly created data in the Data is dated 1 January 2009 (Exhibits A-2, A-3), the Data can be regarded as having been removed to the outside world on or after the same month at the earliest, and, according to evidence (Exhibit A-23) and the totality of the pleadings, by this time, incidents of leaks from government agencies, including the police, had been happening frequently, including incidents involving the removal of data using external memory media, incidents involving the use of personal computers, incidents resulting in the posting of police information on the Internet, and incidents causing damage in the form of the disclosure of personal information as a result of leaks, as seen in Appendix 1, and it can be found that these leak cases had been reported in newspapers etc. Also, it is in the public knowledge that around that time, Winny was causing numerous leaks onto the Internet from computers other than that of the police and government agencies.

Further, the Data contained Personal Data which is the plaintiffs' personal information, and particularly, the content included matters that directly relate to the inner world of individuals and the autonomy of personhood, in the form of information that not only directly revealed that the plaintiffs are Muslims but also indicated the strength of their faith, as well as criminal history, which directly relate to a person's honour and reputation, as previously found and explained. It can be said that such information, even

among the contents of personal privacy, amounts to information that one least wants others to know, and such information, once leaked onto the Internet, carries a risk of being communicated to the general public due to their high capacity to diffuse and spread, and it is extremely difficult, if not almost impossible, to later retrieve all of the information.

As a result, it can be said that it was sufficiently foreseeable to the Superintendent General that if the Data were removed and connected to an external computer, there was a danger of it being leaked onto the Internet through Winny etc., being communicated to the general public, and inflicting great damage to the plaintiffs.

Accordingly, the Superintendent General was under a duty of care in the area of information control to take thorough anti-leak measures so that the plaintiffs' personal information would never be leaked.

- b) In response to this, the defendant Tokyo metropolitan government, citing a 1986 Supreme Court case, argues to the effect that clearly it cannot be said that the specific course of events leading to the Leak Incident, much less the outcome, namely, of the Data being posted on the Internet, was foreseeable to the Superintendent General, in light of the circumstances such as (i) Administrative Notices (On the Administration of Rules Regarding the MPD Information Security) prohibiting employees from removing electromagnetic memory media that constitute the police information system from the police buildings; (ii) the illegality of data removal, subject to criminal and disciplinary penalties as a violation of Article 34 of the Local Government Employee Act; (iii) the multiple acts required in the course of posting the Data on the Internet; and (iv) the complete absence of information leak cases through the removal of data after the February 2008 completion of the introduction of an automatic encryption system when recording data on external memory media from terminal devices (hereinafter referred to as the Automatic Encryption System).

However, penalty rules and administrative notices themselves do not make the removal of data impossible or difficult in a physical or technical sense, and as previously noted, there had already been numerous occasions of leaks from computers onto the Internet through Winny, by around January 2009. As for the Automatic Encryption System, there is insufficient evidence to hold that it had been installed on every computer used in the Third Foreign Affairs Division during the period between that month and

the October 2010 date of the Incident. In fact, evidence (Exhibit A-5) shows that some computers used in the Third Foreign Affairs Division lacked the Automatic Encryption System. Accordingly, none of the points raised by the defendant Tokyo metropolitan government can be said to defeat the Superintendent General's foreseeability illustrated above in subparagraph (b).

The defendant Tokyo metropolitan government also cites in its argument a 2005 Sapporo High Court case ((1) of Exhibit C-11) denying the foreseeability for the manager etc. in an information leak case, but this judgment can be distinguished from the present case due to the specific facts giving rise to foreseeability at the time of the incident. Therefore, consideration of this case does not influence the above decision.

- C) Next to consider is whether or not the Superintendent General breached his duty of care in information management.
- a) Evidence (Exhibits A-2, A-3, C-6, C-7) show that the Metropolitan Police Department established and published the "Rules Regarding Information Security of the MPD" (hereinafter referred to as the Security Rules) etc. on 28 June 2005. This (i) appointed a Metropolitan Police Department Information Security General Officer (hereinafter referred simply as the 'General Officer') to the Metropolitan Police Department headquarters, imposed with a duty to make efforts to appropriately maintain and manage computers, terminal devices, electronic communication lines or any connected machines, and electromagnetic memory media etc. (Article 10 of the Security Rules). Specifically, only authorised electromagnetic memory media could be used in police duties, in order to secure regular functioning of the police information system etc. and to prevent information leaks; Information Management Officers (whose duty involves information security relating to the police information system etc. in order to maintain the information security within their division) who accept into their division an electromagnetic memory media for the use of police duties were to receive an inspection by the head of their division at least once a month regarding its management; and Information Managers (whose duty involves the management of computers etc. in order to maintain information security relating to the police information system etc. within their post), if delivered an electromagnetic memory media by the Information Managing Officer, were to store it in a secure locker etc.; the handling of electromagnetic

memory media was to be disclosed in a “Electromagnetic Memory Media Removal and Return Log” (7 (5) of the Administrative Notice No. 2 etc.). It also (ii) imposed an obligation on the General Manager to encrypt necessary information according to the objectives of the duty, in order to maintain information security (Article 11 of the Security Rules). Specifically, when storing information on an electromagnetic memory media, encryption measures were to be taken unless authorised by the General Manager, and the Information Manager was to verify trails of exports onto the electromagnetic memory media by the encryption file, and report the results to the head of the division (8(1) and (4) of the Administrative Notice No. 2). It further (iii) imposed an obligation on employees to properly handle the police information system etc. as well as the information processed by it (Article 14 of the Security Rules), specifically, prohibiting in general: transferring electromagnetic memory media to others, computers relating to personal ownership, bringing electromagnetic memory media etc. into the National Police Agency building, and removing devices and electromagnetic memory media comprising the police information system etc. from the National Police Agency building (11(3), (10), and (11) of the Administrative Notice No. 2).

- b) However, none of these measures made the removal of data from the building inherently impossible or difficult in a physical or technical sense, and it can be said that compliance with the above rules ultimately depended on the actions of each individual employee. What is more, in terms of the above (a)(i) and (ii), no evidence clarifies to what degree each of the procedures such as inspection of the management of electromagnetic memory media by the head of the division, entry into the “Electromagnetic Memory Media Removal and Return Log” of the removal and return of electromagnetic memory media, and the verification and reporting of trails of exports to electromagnetic memory media by encryption files, were practiced in reality.

As for the Automatic Encryption System, the fact that computers lacking its installment were being used at the Third Foreign Affairs Division was found above in B(b).

If so, as merely establishing and publishing security rules etc. and introducing an automatic encryption system does not ultimately serve as a conclusive factor in preventing information leaks to the outside, it should be

said that constructing a management regime to ensure actual compliance of the Security Rules etc. by each employee or information manager etc. was necessary and essential as a genuine preventative measure.

- c) Yet it has been revealed that the management of trails of the history of external memory media usage etc. for some of the computers used in the Third Foreign Affairs Division was insufficient as held above in (a), and thus it must be observed that the management regime to ensure the actual compliance of security rules etc. in the Third Foreign Affairs Division was inadequate, and that this fact led to the removal of data using external memory media.

It must therefore be said that the Superintendent General negligently breached his duty of care in information management, which is illegal for the purposes of the State Compensation Act. As such, it follows that the defendant Tokyo metropolitan government is liable.

(2) Illegality, for the purposes of the State Compensation Act, of the defendant Japanese government's conduct regarding the Incident

- A) The plaintiffs allege to the effect that under Article 7 (1) of the Security Orders, The National Police Agency must designate an Inspection Officer to perform inspections relating to the police information system, and in light of duties that the role entails, as established by Article 7 (3), the Inspection Officer was under a duty of care, through opportunities such as regular inspections, to accurately assess the substance of the numerous information leak incidents between 2006 and 2008, analyse their causes and responses, reflect them in the Annual Information Security Inspection Plan, and secure, by the 2009 regular inspection of the Metropolitan Police Department at the latest, the implementation of measures to prevent information leaks using external memory media, and that breach of this duty resulted in the Incident.
- B) Upon consideration, it is true that the National Police Agency, under Article 7(1) of the Security Orders (Exhibit B-28), is to appoint an Inspection Officer to supervise the execution of inspections regarding information security related to the police information system, and according to the Execution Guidelines for Police Information Security Inspections (Exhibit B-30), the Inspection Officer, in conducting regular inspections of the prefectural police etc., is to formulate an Annual Information Security Inspection Plan, and based on this, establish an Inspection Execution Plan for each individual inspection; and after conclusion of the regular inspection, the Inspection Officer is to create an Inspection Report and

submit it to the Chief Information Security Manager, who, based on the Report, instructs the heads of the divisions in question on necessary matters such as improvements to be made; the leaders receiving said instructions are to promptly take adequate measures based on the substance of the instructions, and report back to the Chief Information Security Manager on the outcome; and in addition, the Inspection Officer is to execute Special Inspections when the necessity of such is particularly recognised by the Chief Information Security Manager. The fact that the Incident was due to a breach of the duty of care in information management in the Third Foreign Affairs Division has already been elaborated on, and the possibility that the Incident might have been prevented had the inadequacies in information management been indicated at the National Police Agency's inspection stage, cannot itself be denied.

However, inspections carried out by the National Police Agency's Inspection Officer, besides the annual regular inspection, are special inspections responding to particular necessities, and are not of a kind involving, for instance, an Inspection Officer permanently stationed in each division to monitor compliance with information security (the National Police Agency is in a position to supervise the prefectural police in general, and it is impossible for Inspection Officers to be permanently stationed in each division of all the prefectural police forces in order to monitor compliance with information security, and it cannot be said that a duty to carry out such inspections exists), so cases in which the defendant Japanese government would be held liable for the Inspection Officer's inspections should be said to be limited to cases, for example, such as a chronic failure to inspect, or a failure to articulate an inadequacy found through an inspection, and such circumstances cannot be found regarding the Incident, in compiling the totality of the evidence in this case.

On the other hand, evidence (Exhibit B-52) shows that the 2009 Police Information Security Inspection on the Metropolitan Police Department and the prefectural police etc., was carried out with a focus on improvements in response to indications from past inspections etc., the implementation of increasingly thorough preventative measures against the reoccurrence of information leaks, the implementation of information security measures concerning external memory media etc., the management of the police information system, and measures against breaches of information security. As a result, in some divisions inappropriate circumstances were identified such as (i) indications of the use of unauthorised external memory media on computers unable to acquire trails of

their use; (ii) that encryption when recording information on external memory media was not thoroughly practiced; and (iii) verification of the trails of exporting information onto external memory media done by the very employees using the said media. Considering these findings, improvements were requested of the divisions in question to (i) reinforce the management and inspections etc. of the use of computers and external memory media; (ii) make thorough encryptions when recording information onto external memory media; (iii) have the manager of media usage verify trails in the import and export of information regarding external memory media; and to report the results to the administrative manager etc.

Further, according to evidence (Exhibit A-23) and the entirety of the pleadings, the National Police Agency implemented countermeasures for each of the following cases listed on Appendix 1: (i) In response to the leak of personal information onto the Internet at A and B police agencies in March 2006: measures such as the inspection of personal computers etc.; submission of confirmation documents (that no employee was to manage police information on personal computers or external memory media that is not authorised to use on duty, or use computers running Winny (both of which are held to standards at the time)); a reinforcement of information management based on remarks made by the Chief Cabinet Secretary at the meeting of administrative vice-ministers etc. held on the 9th of the same month, to the effect that information leaks through the use of personal computers were creating an extremely concerning situation, and that the relevant ministries and agencies were to reinforce warnings to each and every employee regarding computer use against information leaks; a sweep of personal computers used on duty; reinforcement of inspections; and special inspections against all of the prefectural police agencies etc., (ii) in response to the leak of personal information onto the internet from C police agency in February 2007: measures such as compliance with fundamental measures in information security including the implementation of self-inspections and individual interviews; compliance with rules regulating the management of police information; and limiting the use of external memory media as well as taking encryption measures etc., (iii) in response to the leak of personal information onto the Internet from D police agency in June of the same year: measures such as the reinforcement of fundamental matters regarding the management of police information; deleting of unnecessary police information; sweeping unauthorised personal devices; and inspecting personal computers etc., (iv) in response to the leak of police

information onto the Internet from E police agency in May 2008: measures such as the inspection of personal computers and actual devices; prohibition on the use of unregistered external memory media; resubmission of confirmation documents; small group discussions etc. to raise awareness; recording and managing trails; and limiting the use of external memory media drives by USB keys.

Accordingly, it can be found that the National Police Agency's Inspection Officer had been carrying out the necessary regular inspections and implementing possible measures every time an information leak onto the Internet happened.

- C) Therefore, the plaintiffs' above argument cannot be accepted, and the defendant Japanese government cannot be found liable for the Incident.

(3) Illegality, for the purposes of the State Compensation Act, of the defendants' omissions following the Incident

- A) The plaintiffs allege to the effect that the Metropolitan Police Department is liable in state compensation because while it should have taken concrete measures such as promptly acknowledging the Data as documents created and managed by the Metropolitan Police Department and the National Police Agency, and making requests against Internet providers etc. continuing to publish and post the material to delete them, in reality the Metropolitan Police Department and the National Police Agency refused to acknowledge that they had created and managed the documents in the Data, and failed to take effective measures until admitting to the leak and making a formal apology on 24 December 2010.

- B) Upon consideration, certainly, according to the pleadings in their entirety, the Metropolitan Police Department and the National Police Agency could not have comprehensively deleted the Data including the plaintiffs' personal information. However, evidence (Exhibits A-2, A-3) show that the National Police Agency recognised the Incident on 29 October of that year, contacted the Metropolitan Police Department, and in cooperation, commenced investigations etc. At the same time, it can be found that the Metropolitan Police Department immediately requested cooperation, to delete the Data, from providers etc. that offered spaces for webpages posting them.

Also, despite the fact that completely deleting the Data, which included the plaintiffs' personal information, was not ultimately possible as above, according to the totality of the pleadings, the reason for this was a combination of multiple factors such as that in this Incident, methods were used to inhibit identification of the leak source such as transiting through numerous overseas servers; that due to

Winy, the file sharing software used, retrieval of the information was virtually impossible; and that the police could not compel erasure of the Data from the servers onto which the leaked information was posted, merely making requests against overseas servers to voluntarily delete them.

Consequently, it is fair to say that the Metropolitan Police Department and the National Police Agency, in cooperation, fulfilled their duty as they should, and cannot be said to have failed in their duty to mitigate loss as the plaintiffs claim.

While this Court notes the fact that the defendants have not acknowledged that the Data consists of documents created and managed by the police even in this lawsuit, evidence (11(1)-(114) of Exhibit A-1) and the totality of the pleadings demonstrate that the Data contains information regarding individuals or organisations, information about cooperation with foreign countries, as well as information-gathering activities by the police etc., and it can be found that a straightforward admission that the Data had been created and managed by the police involves the risk of further harming the rights and interests of those individuals and organisations, as well as damaging the trust of the countries in question and impeding the appropriate execution of information-gathering activities etc. regarding future police strategies against international terrorism. Thus, it cannot be said that this itself is an act that is independently illegal for the purposes of the State Compensation Act.

C) Therefore, the above arguments of the plaintiffs cannot be accepted.

3. On Issue 3

(1)

A) The Incident was one in which the plaintiffs' personal information was posted on the Internet. It included types of information that one least wishes to be disclosed to others, such as information on the plaintiffs' faith and prior convictions. What is more, there was also data that took the form of a page noting relationships etc. with another Muslim individual under the heading "Suspicions", and while these entries were confined to piecemeal information, it is difficult for a third party not to receive the impression that the plaintiffs are terrorists, supporters of such, or at least suspected by the police along those lines. Furthermore, once such information is leaked onto the Internet, due to their tendencies to diffuse and spread, there is the possibility that the information could extend to the entire world, and it is difficult to completely erase the information, and in reality, the Data had been downloaded onto more than 10,000 computers in more than 20

countries and regions as of 25 November 2010, less than one month since the Incident, as per (2) of the Undisputed Facts. In view of these points, it can only be said that the invasion of privacy and defamation that the Incident inflicted on the plaintiffs was of great magnitude.

Further, the plaintiffs have made testimonies such as the following: because of the leaked Data, their family may face discrimination, harm or disadvantages based on prejudice; their familial relations may be adversely affected; the mutual trust among Muslims was damaged; they were forced to become paranoid in everyday life and obsessed over people's perceptions; it became difficult to work or secure permanent employment, or their businesses came to suffer; and that they no longer have a peace of mind in returning to their home countries, when considering the possibility of being suspected as a terrorist (1-17 of Exhibit A-34). The plaintiffs' concerns are fully understandable in light of the above content and nature of the information contained in the Personal Data, and can be called characteristics of detriment from the invasion of privacy and defamation that the plaintiffs suffered.

B) On the other hand, it must also be considered that with the exception of economic damage to some of the plaintiffs in the form of loss of employment and revenue etc., the above detriment to the plaintiffs have not yet materialised at this point, and remain vague insecurities about matters that may or may not eventuate in the future. On this point, the plaintiffs argue to the effect that some of the plaintiffs have: suffered bankruptcy in their business because despite directing capital and efforts toward establishing a foreign branch of the company they manage, their visa was denied due to the foreign authorities receiving notice of this false information regarding investigations, and the entire plan fell through; seen a drastic decrease of revenue at the restaurant they manage; effectively been fired from the restaurant they worked at; and lost their employment at an embassy. However, such matters differ greatly depending on the individual circumstances of each plaintiff, and it should be said that it is not proper to take into consideration such individual matters in calculating the amount of reparations.

C) Incidentally, plaintiffs 1 and 4 were merely listed on others' Résumé-like Pages as spouses, as found previously.

However, although a profile photo of plaintiff 1 has not been leaked, he was listed on the "Familial Relations and Acquaintances" section of plaintiff 2's Résumé-like Pages as her husband, along with his name, date of birth, address and employer, and the "Information on Suspicions" section of plaintiff 2's

Identity and Suspicions Page noted that he holds a lecturer-like position at the mosque and is highly reputable as an Islamic lecturer, and continuously participates in workshops, special prayers and sermons etc. held at the mosque, and that they passionately engage in missionary activities as a couple, as found in the above 1(1)B(b) and (d). As details of his religious activities have been leaked, and is entered under the “Information on Suspicions” section, depending on the reading of the leaked information, plaintiff 1 could, along with plaintiff 2, be mistakenly regarded as a terrorist supporter, and it should be said that it is not proper to differentiate his level of emotional suffering in comparison to the other plaintiffs.

In contrast, as for plaintiff 4, she is merely listed as plaintiff 3’s wife in the “Familial Relationships and Acquaintances” section of plaintiff 3’s Résumé-like Pages, with her name, date of birth and address noted, but not her employment. Also, on plaintiff 3’s Identity and Suspicions Page (29 of Exhibit A-1), she only has her name and date of birth noted as his wife, under the section of “Family” within “Identity Matters”. There is no mention of plaintiff 4 in the “Information on Suspicions” section. As a result, in relation to plaintiff 4, although the extent of her emotional suffering caused by the disclosure of information depicting her spouse as if he were a terrorist cannot be dismissed, there exists a substantial difference in the quality and quantity of her leaked personal information in comparison with the other plaintiffs, and it must be said that her emotional suffering is significantly less than the others.

D) The defendant Tokyo metropolitan government has consistently declined to admit that the Data was information held by the Metropolitan Police Department, and this fact can be counted as one of the reasons why the plaintiffs were forced to go through the trouble of filing this lawsuit. Therefore, even on the premise that this in itself is not considered an independent illegality for the purposes of the State Compensation Act, it should be taken into account in calculating the reparations. The fact that revelations by the defendants on this point risks adverse effects on foreign relations is as held above in 2(3)B, but this does not justify burdening the plaintiffs in the previously stated ways.

(2) Considering these matters comprehensively, it is held that 5 million yen each for each of the plaintiffs with the exception of plaintiff 4, and 2 million yen for plaintiff 4, is fair compensation for the plaintiffs’ emotional suffering caused by the defendant Tokyo metropolitan government’s breach of its duty of care in information management regarding this case. Additionally, in light of the substance of this suit, advancement of their claims

through legal representation was necessary, so 10% of the reparations for each plaintiff (namely, 500,000 for each of the plaintiffs except for plaintiff 4, and 200,000 for plaintiff 4) should be held to amount to legal costs as damages within the scope of legal causation from the defendant Tokyo metropolitan government's above breach in their duty of care.

As this case is a claim for uniform reparations, this Court initially considered adopting the minimum amount corresponding to plaintiff 4's emotional suffering for all the plaintiffs, but because this would be too low for the others, separated out plaintiff 4, and as for the remaining plaintiffs, disregarded individual matters as previously stated, and translated their common detriment into a monetary amount in order to calculate a uniform sum of reparations.

4. On Issue 4

(translation omitted)

IV. Conclusion

Given the above circumstances, the plaintiffs' claim against the defendant Tokyo metropolitan government has a basis to the following limit and is thereby granted: for each plaintiff with the exception of plaintiff 4, a sum of 5.5 million yen in damages as well as money accruing therefrom at an annual interest rate of 5% during a period starting from 26 July 2011 up to a date when the payment will be completed; and for plaintiff 4, a sum of 2.2 million yen in damages as well as money accruing therefrom at an annual interest rate of 5% during a period starting from 26 July 2011 up to a date when the payment will be completed. The remainders of their claim against the defendant Tokyo metropolitan government, as well as their claim against defendant Japanese government, are dismissed for a lack of basis. Accordingly, judgment is rendered as described in the main text.

A declaration for the suspension of provisional execution will not be made, as it is not proper.