

2009

## Foreword

John R. Tunheim

Follow this and additional works at: <http://open.mitchellhamline.edu/wmlr>

### Recommended Citation

Tunheim, John R. (2009) "Foreword," *William Mitchell Law Review*: Vol. 35: Iss. 5, Article 1.  
Available at: <http://open.mitchellhamline.edu/wmlr/vol35/iss5/1>

This Prefatory Matter is brought to you for free and open access by the Law Reviews and Journals at Mitchell Hamline Open Access. It has been accepted for inclusion in William Mitchell Law Review by an authorized administrator of Mitchell Hamline Open Access. For more information, please contact [sean.felhofer@mitchellhamline.edu](mailto:sean.felhofer@mitchellhamline.edu).

© Mitchell Hamline School of Law

## FOREWORD

The Honorable John R. Tunheim<sup>†</sup>

September 11, 2008, marked the seventh anniversary of the largest terrorist attack on U.S. soil. Two hijacked U.S. planes slammed into the World Trade Center in New York City. Another crashed into the Pentagon in Virginia. The fourth was taken down in Pennsylvania. Approximately 3000 civilians were killed. Everyone lost on September 11, whether it was a family member, a friend, a colleague, or a general sense of security. The world's eyes turned to the United States.

The world's eyes also turned to the Twin Cities. On the day of the attacks, many Minnesotans wondered whether the Twin Cities were under any direct threat. Various businesses shut down, including the Mall of America in Bloomington, the IDS tower in Minneapolis, and St. Paul's World Trade Center.<sup>1</sup> "Workers poured out of Twin Cities office buildings and reacted to the attacks with the same shock, anger and sorrow that swept the nation."<sup>2</sup>

Unknown at the time, Minnesota had a deeper connection to the September 11 attacks. Less than a month before the attacks, Zacarias Moussaoui, later convicted for his role in the September 11 conspiracy, enrolled for flight training lessons at Pan-Am International Flight Academy in Eagan, Minnesota. Members of the flight school alerted FBI agents in Minnesota of their suspicions. Next, FBI and INS agents arrested Moussaoui in Minnesota for immigration violations. Moussaoui was subsequently transferred to Virginia for prosecution.

---

<sup>†</sup> Judge John R. Tunheim has been a United States District Judge for the District of Minnesota since 1995. He has presided over both *United States v. Elzahabi* and *United States v. Warsame*. From 1994–1998, he served as Chair of the United States Assassination Records Review Board, an independent federal agency that declassified millions of pages of intelligence and law enforcement records of the assassination of President John F. Kennedy.

1. Elizabeth Stawicki, *Minnesota's September 11*, MPR, Sept. 9, 2002, [http://news.minnesota.publicradio.org/features/200209/09\\_stawickie\\_chronology/](http://news.minnesota.publicradio.org/features/200209/09_stawickie_chronology/).

2. *Id.*

Several individuals have been prosecuted in the District of Minnesota for terrorism-related charges. For instance, in *United States v. Elzhabi*, the terrorism-related charges were dropped after the defendant was convicted of immigration fraud.<sup>3</sup> The other case, *United States v. Warsame*, is still pending.<sup>4</sup> Evidence in these cases has involved a significant review of classified information, implicating the Classified Information Procedures Act,<sup>5</sup> and raising important questions both about the fairness of using substitute information as evidence and the difficulty of prosecuting individuals where evidence is obtained through intelligence gathering activities.

Aside from the Moussaoui connection and the two Minnesota prosecutions, why should the world be concerned with terroristic attacks in Minnesota, in particular, the Twin Cities? Some say that Minnesota is particularly susceptible to a terroristic attack because it is close to the Canadian border; it has a large Arab-Muslim community; it supports a large network of public and private universities and colleges; and its residents enjoy an open way of living. However, others, such as former U.S. Attorney Tom Heffelfinger, think that, although these factors play a role in Minnesota law enforcement's investigation of terrorist activity, none of them is particularly unique. In other words, some opine that Minnesota is no more vulnerable to terrorist attacks than other states.

Over many years, the National Security Forum at the William Mitchell College of Law in St. Paul, Minnesota, has addressed these opinions, their counterparts, and many variants through a series of seminars, panel discussions, and debates. The *Journal of the National Security Forum* (JNSF), an offshoot from the National Security Forum and the *William Mitchell Law Review*, continues these discussions with its third annual installment.

JNSF was created in 2006 to provide thoughtful discussion of both legal issues and policy concerns related to national security. This year's Volume includes, among others, pieces by Professor John Yoo of the Boalt Hall School of Law, University of California,

---

3. See, e.g., 517 F. Supp. 2d 1121 (D. Minn. 2007) (order denying judgment of acquittal or, alternatively, a new trial).

4. See, e.g., 547 F. Supp. 2d 982 (D. Minn. 2008) (order denying disclosure and suppression).

5. 18 U.S.C. app. 3 §§ 1-16 (2006).

Berkeley; Professor Joseph Margulies of Northwestern University School of Law; Professor Jordan Paust of the University of Houston Law Center; Scott Horton, former president of the International League for Human Rights; and former U.S. Vice President Walter Mondale. The Volume also includes student essays and notes, including a note that discusses the abuse of wire transfer systems and the virtualization of the currency exchange known as hawala.

The debate concerning the legal and policy issues involving national security continues unabated, and largely unresolved, both nationally and internationally. It is a fascinating and difficult debate that drives policy and influences elections. Often, the debate degenerates into argument, with debaters choosing sides. What the National Security Forum has done over the years is to bring a very important and rational discussion about national security issues to the Twin Cities community through speakers, programs, and writings such as you will find in this Volume. Once again, the debate is lively, informative, sometimes provocative, and extremely interesting. JNSF produces good, insightful reading. This Volume is the best ever.

\*\*\*