

2003

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## Recommended Citation

Stanek, Rich (2003) "Terrorism: Minnesota Responds to the Clear and Present Danger," *William Mitchell Law Review*: Vol. 29: Iss. 3, Article 13.

Available at: <http://open.mitchellhamline.edu/wmlr/vol29/iss3/13>

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## **ESSAY: TERRORISM: MINNESOTA RESPONDS TO THE CLEAR AND PRESENT DANGER**

Public Safety Commissioner Rich Stanek<sup>†</sup>

On September 11, 2001, the United States suffered its worst-ever attack on American soil. The destruction of the World Trade Center and the plane crashes at the Pentagon and in Pennsylvania sent waves of fear and horror across the nation. All Americans were terrified while we watched, waited and prayed as the day's events unfolded.

As minutes turned to hours, and hours to days, Americans focused not only on those who perished in those horrific events, but also on those who were behind the attacks. We began learning of a region that we knew little about, and of the country of Afghanistan of which we knew even less. But as Minnesotans concentrated on the East Coast and the Middle East, we began to realize that we also needed to focus within our own state's borders.

Although the attacks occurred 1000 miles from Minnesota, our state has been at the center of America's War on Terrorism from the beginning. Just a few days after September 11, America discovered that the man designated to be the twentieth hijacker was instead locked up here in Minnesota in the Sherburne County Jail. Zacarias Moussaoui, a man with links to Osama bin Laden and the al-Qaeda terrorist network, had been detained for immigration violations after he had enrolled at the Pan American International Flight Academy in suburban Eagan, Minnesota.

Only weeks before the attacks, instructors at the flight school had become suspicious of Moussaoui when he enrolled in an aviation class that was far beyond the minimal aviation training he

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had received to that point. The staff also grew wary when Moussaoui paid the tuition with \$6300 in cash. School officials contacted the FBI offices in Minneapolis, and Moussaoui was quickly arrested and detained on immigration violations. Moussaoui remains the only person whom the federal government has charged with having a direct role in the events of September 11.

Events in Minnesota also made the nation realize that various government agencies that we depend on to protect us, such as the CIA and FBI, had not been communicating effectively. Minnesota-based FBI Special Agent Coleen Rowley initially exposed the communication shortcomings, testifying before Congress that FBI offices in Washington, D.C., consistently had ignored requests for a warrant to search Moussaoui's personal computer. Although Rowley was the first to highlight the deficiencies, several other FBI agents have since acknowledged that the federal government ignored many signals and warning signs before September 11.

It was here in Minnesota where investigators suspected that terrorists were skimming money from funds sent by Somali immigrants to relatives in refugee camps. The government shut down Somali wire services known as *hawalas* because officials believed some money from *hawalas* was going to support known terrorists groups.

All these incidents clearly indicate that Minnesota is susceptible to a terrorist attack. In the Minnesota Legislature, we as policy makers have a duty to look at Minnesota's weaknesses. We must proactively do what is needed to ensure the safety of Minnesotans and all Americans.

After assessing Minnesota's preparation for domestic terrorism, we in the Legislature concluded that Minnesota actually is much better prepared than other states due to previous investments in the state's infrastructure and first responders. Specifically, nearly \$70 million in state and federal money has been invested in Minnesota's Integrated Justice Information System, called CriMNet.

Currently, although Minnesota has more than 1100 individual criminal justice information points, each with individual computer systems, they are unable to communicate with each other. In other words, a probation officer in Duluth, a prosecutor in Minneapolis and a judge in Rochester all have access to different information. None of them can be assured of accessing an offender's entire

criminal history. This poses a significant public safety threat.

When completed, CriMNet will give Minnesota prosecutors, judges, law enforcement officers and probation and corrections officers statewide access to current, accurate and complete criminal history information with just a few strokes of the computer keyboard.

CriMNet arguably is one of the most advanced systems of its kind in the nation. Neither the federal government nor any other state has even come close to the technological development of CriMNet. In the wake of September 11, CriMNet can serve as a cornerstone for the nation's homeland security. By connecting each state's criminal and juvenile justice systems through a common computer system, complete, accurate and timely information could be shared nationwide. States would improve public safety, and federal authorities would have much-improved access to intelligence information that is crucial to safeguarding our nation.

The Bush administration has identified information sharing as a top priority in the War on Terrorism. While testifying before the United States Senate Intelligence Committee, Deputy Secretary of State Richard Armitage stated that a lack of information sharing among the intelligence community failed before September 11. Armitage said the intelligence community had linked two hijackers to al-Qaeda and had transmitted that information to the Department of State's computer system on August 23, 2001. But by the time the information was sent around the globe, the hijackers already had received visas and were in the United States. "If we had had the information sooner, it is reasonable to believe these two criminals would never have entered the country in the first place," Armitage said.

But others besides the State Department and intelligence community need an integrated information system; it is necessary for local law enforcement as well. In the weeks and months before September 11, local law enforcement in various states had contact with several of the hijackers. Unfortunately, law enforcement did not know whom they were dealing with because of a failure to use technology. Consider the following three examples:

- (1) In July 2001, Mohammed Atta, considered the leader of the September 11 hijackers, was stopped by police in Tamarac, Florida, and ticketed for an invalid license. Atta ignored the

ticket and a bench warrant was issued for his arrest. When Atta was stopped again for speeding a few weeks later in a nearby town, neither his warrant nor the fact that he was on a CIA “watch list” came up on the police officer’s squad car computer. Atta was released with only a warning.

(2) In August 2001, Hani Hanjour, who was aboard the airliner that crashed into the Pentagon, was stopped for going 50 miles per hour in a 30 miles-per-hour zone. Police released Hanjour with only a traffic ticket because they did not know he had entered the United States on a student visa, failed to provide INS officials with a valid address, and never actually attended any classes.

(3) Just two days before the September 11 attacks, Ziad Samir Jarrah, believed to have piloted the airplane that crashed into the field in Pennsylvania, was pulled over by Maryland state troopers for going 90 miles per hour in a 65 miles-per-hour zone. Jarrah gave officers a valid driver’s license but with an invalid address. Again, the police officer did not know that Jarrah was on a CIA watch list. The officer simply let the eventual terrorist go on his way. After September 11, the car that Jarrah was driving was found parked at the Newark, New Jersey, airport. Jarrah’s speeding ticket was still in the glove compartment.

Building a CriMNet system in Minnesota and a similar system around the nation would enable law enforcement officials to better address offenders and their infractions. Information is the most valuable weapon the United States can possess in the War on Terrorism.

Although was CriMNet already being developed before September 11, that day’s tragic events certainly provided a sense of urgency for Minnesota to complete the system so it can be a blueprint for the rest of the nation.

Besides CriMNet, new rules were implemented as a direct result of September 11. No issue received more attention or was more contested during the 2002 legislative session than the provision to ensure that expiration dates on driver’s licenses of temporary visitors to Minnesota coincide with expiration dates of the visitors’ visas or other documentation. The provision also

required that the expiration date of the driver's visa be put on the visitor's driver's license to inform law enforcement officers that the driver's authority to remain in the United States has expired.

A temporary visitor's driver's license had been valid for four years, regardless of when their authority to be in the United States expired. Under these conditions, it was possible for a temporary visitor to have received a valid driver's license on December 31, 2000, that would not expire until 2004, even if his authority to be in the country expired the next day.

In Minnesota and across the country, a driver's license or state identification card gives a person access to airplanes, courthouses, and gun purchases. Most Minnesota policy makers believed that including visa expiration dates on driver's licenses was proper to ensure citizens' safety. However, the initiative did not pass the Legislature due to politics in which some legislators chose to hold the entire anti-terrorism bill hostage.

So, the Commissioner of Public Safety attempted to advance the driver's license policy through emergency rulemaking authority. After an administrative challenge, Chief Administrative Law Judge Kenneth Nickolai concluded that the initiative was extremely important to Minnesotans' public safety and therefore could be implemented via emergency rulemaking authority. After this ruling, the Department of Public Safety adopted these rules:

- 1) An out-of-state driver's license or identification card no longer will be accepted as a stand-alone identification document. They are secondary forms of identification. To obtain a driver's license or identification card, first-time Minnesota applicants must present primary and secondary forms of identification to verify both identity and residency.
- 2) Visitors in the United States as temporary residents will have the words "Status Check" and a visa expiration date on their state-issued driver's license and ID cards.
- 3) Immigrants granted permanent or indefinite residency need not have a "Status Check" designation on state-issued cards.
- 4) As part of the identification process, all applicants must have a full-face picture taken. Although the head and face

must not be obscured, headwear worn for religious or medical reasons need not be removed completely. If necessary, individuals will be asked to pull headwear back far enough so that the face is not obscured and the shape of the head can be discerned.

Minnesota is not the only state trying to prevent criminals and potential terrorists from obtaining and using state identification cards. Twenty-seven states have enacted rule changes or laws to strengthen documentation for proof of residency and/or short-term admission requirements for driver's licenses and identification cards.

Although controversial at first, the issue has seemed to gain Minnesotans' support. People understand that just as they must wait in longer lines at the airport, certain measures must be taken to maintain their safety. The issue is credited for helping to elect Tim Pawlenty as governor in 2002.

There had been a three-way dead heat among Democrat Roger Moe, Independence candidate Tim Penny, and the Republican Pawlenty. Three weeks before the election, Pawlenty aired a television commercial supporting rules that the Department of Public Safety had implemented relating to state driver's licenses and announced that as governor he would make them law. Moe and Penny immediately denounced the advertisement as an attack on immigrants and temporary visitors to the state and country.

The end result was that many Minnesotans agreed with the new rule and Pawlenty's desire to make the provision law. During the first few days after the advertisement aired, Pawlenty began leading in the polls for governor and surged as the ad received more airtime. He was elected by 8 percentage points (44.37% to 36.46%). State and national political observers pointed to the advertisement as making the difference in the governor's race. It was an issue on which candidates clearly differentiated themselves, and the majority of Minnesotans preferred Pawlenty's approach.

Since September 11, Minnesota policy makers have had a difficult balancing act to perform. On the one hand, we must act to ensure public safety of all the people of Minnesota. However, it has to be achieved without infringing on the very personal freedoms that the terrorists threatened with their attacks. The 2002 legislative session represented the first installment of Minnesota's new safety measures. As President Bush has reiterated

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repeatedly since the attacks, the War on Terrorism will be a marathon, not a sprint. Therefore, we came back in 2003 to continue our efforts to protect Minnesotans.

We have learned from the past. Minnesota is not immune from domestic terrorism.