

THE CURRENT STATE OF HOMELAND SECURITY

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February 4, 2011

Thank you, Sean [Mullen, Editor-In-Chief of *Rutgers Law Review*], for that very kind introduction. Many thanks also to the organizers of this terrific Symposium. Having edited a law review that had a Symposium Issue, I have been through a similar process, and my sympathies are with you. As much work as it has been so far, your work is now just beginning.

It is also a real privilege for me to be here to speak at this Symposium, which addresses a timely and important topic: *Unsettled Foundations, Uncertain Results: 9/11 and the Law, Ten Years After*. Secretary Napolitano regrets not being able to be here today and sends greetings from the Department of Homeland Security (“Department” or “DHS”) to all of you.

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My charge this afternoon is to offer a few observations about the current state of homeland security; some of the challenges we face; and how law schools like Rutgers can help the Department and the nation meet those challenges.

It is particularly appropriate to offer these remarks at Rutgers. As you all know, the leadership of this school and this state has played a key role in helping our nation understand the vulnerabilities in our homeland security and how best to address them.

For example, few have done more to identify what the 9/11 attacks revealed about the weaknesses in our capacity to protect the homeland than New Jersey’s former governor, Tom Kean, and your very own dean, John Farmer, both of whom played significant roles with the 9/11 Commission (“the Commission”)—Governor Kean as chair, and Dean Farmer as senior counsel and a key contributor to the Commission’s report. The Commission’s recommendations have in many ways set the course for the Department’s efforts and helped us build an agency far better equipped to combat security threats to

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our homeland. Governor Kean has, in addition, continued to offer sound advice to the Department through his work on the Bipartisan Policy Center's National Security Preparedness Group.

Together with favorite New Jersey son Michael Chertoff, who as you know served with distinction as the immediate past Secretary at DHS, these New Jerseyans have assumed an essential role in building the Department of Homeland Security and shaping its mission. So, Rutgers Law School is an ideal venue to examine where things stand, nearly ten years after 9/11 and almost eight years after the formation of the Department, and where we should go from here.

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As all of you know, DHS was created in the wake of the tragic terrorist attacks of September 11, 2001.¹ Prior to 9/11, the responsibility for protecting our nation from external and homegrown threats, and for regulating the flow of people and goods across our borders, was spread across twenty-two different federal agencies.² In 2002, Congress sought to address this diffusion of responsibility by passing the Homeland Security Act, which in turn resulted in the largest reorganization of the federal government in over fifty years and created the third largest cabinet department.³

From those twenty-two agencies came the seven operating components that today form the core of DHS: the Transportation Security Administration ("TSA"); Customs and Border Protection ("CBP"); Immigration and Customs Enforcement ("ICE"); Citizenship and Immigration Services ("CIS"); the Federal Emergency Management Agency ("FEMA"); the Secret Service; and the Coast Guard.⁴

Bringing together all of these different agencies into "one DHS" has not been easy. Like any new agency, we have experienced our share of growing pains over the last seven years as we figured out how best to work together and with our external partners in the federal, state, and local governments to protect our homeland. We also learned what worked—such as the creation of the fusion centers at the state level and in major urban areas to channel actionable and timely intelligence and analysis to state and local law enforcement and first responders—as well as what did not—such as the color-coded threat advisory system, which, as you know, the Secretary

1. *Creation of the Department of Homeland Security*, U.S. DEP'T HOMELAND SEC., http://www.dhs.gov/xabout/history/gc_1297963906741.shtm (last modified June 6, 2011).

2. *Id.*

3. *Fact Sheet: Leadership and Management Strategies for Homeland Security Merger*, U.S. DEP'T HOMELAND SEC., http://www.dhs.gov/xnews/releases/press_release_0345.shtm (last modified February 11, 2004).

4. *Id.*; *Department Subcomponents and Agencies*, U.S. DEP'T HOMELAND SEC., <http://www.dhs.gov/xabout/structure/> (last modified May 21, 2011).

announced last week will be replaced by a new, two-tiered system.⁵ When implemented, that new system will provide a clear statement of any imminent or elevated threat and will include: “a concise summary of the potential threat, information about actions being taken to ensure public safety . . . [any] recommended steps that individuals and communities can take,” and, significantly, a specific end date.⁶

So, what then is the current state of homeland security? I can report that our newly formed department has, under the leadership of Secretary Napolitano, built significantly upon the strong foundations established by her predecessors, Tom Ridge and Michael Chertoff.⁷

As the Secretary noted in her State of Homeland Security Address last week, I can also report that “our homeland is more secure than it was ten years ago, and, indeed, more secure than it was two years ago. If these were ordinary times, that might suffice. But these are not ordinary times.”⁸

In an era of ever-evolving threats, our understanding of and response to these dangers cannot be static, but rather must also evolve in each of our five core homeland security mission areas: (1) preventing terrorism and enhancing security; (2) securing and managing our borders; (3) enforcing and administering our immigration laws; (4) safeguarding and securing cyberspace; and (5) ensuring adequate response and resilience to disasters.⁹ Without taking away from any of the other missions, my remarks today will focus on our first, and indeed cornerstone, mission: guarding against terrorism. In particular, I would like to highlight three themes in our counterterrorism mission that present both opportunities and challenges for us.

The first theme has to do with the evolving nature of the threat. Our domestic counterterrorism efforts have historically been based on the belief that we face the greatest risk from attacks planned and carried out by individuals from abroad. Following 9/11, for example, the federal government moved quickly to build an intelligence and security apparatus that has protected our country from the kind of

5. Press Release, Office of the Press Sec’y, U.S. Dep’t of Homeland Sec., Secretary Napolitano Announces Implementation of National Terrorism Advisory System (April 20, 2011), *available at* http://www.dhs.gov/ynews/releases/pr_1303296515462.shtm.

6. Janet Napolitano, U.S. Sec’y of Homeland Sec., State of America’s Homeland Sec. Address (Jan. 27, 2011), *available at* http://www.dhs.gov/ynews/speeches/sp_1296152572413.shtm.

7. *Id.*

8. *Id.*

9. U.S. DEP’T OF HOMELAND SEC., QUADRENNIAL HOMELAND SECURITY REVIEW REPORT: A STRATEGIC FRAMEWORK FOR A SECURE HOMELAND (Feb. 2010), *available at* http://www.dhs.gov/xlibrary/assets/qhsr_report.pdf.

large-scale attack—directed from abroad—that struck us nearly ten years ago. The resulting architecture has yielded considerable success in both preventing this kind of attack, as well as greatly limiting—though not eliminating—the operational ability of the core al-Qaeda group that is currently based in the mountainous region on the border of Afghanistan and Pakistan.¹⁰

Despite these successes, the risk of such foreign-based attacks remains a significant threat today. We know that al-Qaeda and other groups sharing their terrorist ideology continue to target the United States directly. Today, however, we also face growing threats from other foreign-based terrorist groups that are inspired by al-Qaeda ideology, but have few, if any, operational connections to the core al-Qaeda group. We are also dealing with the threat from terrorists abroad who use the Internet and social media like Facebook and YouTube to reach vulnerable individuals and inspire new recruits. And, perhaps most crucially, we face an environment where violent extremism is not defined or contained by international borders. As a result, today we must mitigate threats that are homegrown as well as those that originate abroad.

As one of this morning's panels highlighted, one of the most striking elements of today's threat picture is that plots to attack America increasingly involve our own residents and citizens. We saw this dynamic at work with Najibullah Zazi, a legal permanent resident arrested in 2009 for plotting to attack the New York City subway system;¹¹ Faisal Shahzad, a naturalized U.S. citizen who attempted to explode a car bomb in Times Square last year;¹² as well as more recent arrests in Portland, Oregon; Dallas; and in the Washington, DC area.¹³

In addition, we have observed these groups trying to inspire individuals in the West to launch their own, smaller-scale attacks, which require less advanced planning or coordination. The logic surrounding these kinds of plots is simple: they present fewer opportunities for disruption by intelligence or law enforcement than

10. *Understanding the Homeland Threat Landscape*—Considerations for the 112th Congress: *Hearing Before the H. Comm. on Homeland Security*, 112th Cong. (2011) (testimony of Janet Napolitano, Sec'y, U.S. Dep't of Homeland Sec.) [hereinafter *Understanding the Homeland Threat Landscape*], available at http://www.nctc.gov/press_room/speeches/Transcript-HHSC_Understanding-the-Homeland-Threat.pdf.

11. Raymond Hernandez & Karen Zraick, *Terrorism Task Force Raids Queens Apartments*, N.Y. TIMES, Sept. 15, 2009, at A24.

12. Mark Mazzetti et al., *Terrorism Suspect, Charged, Admits to Role in Bomb Plot*, N.Y. TIMES, May 5, 2010, at A1.

13. Colin Miner et al., *Bomb Plot Foiled at Holiday Event in Portland, Ore.*, N.Y. TIMES, Nov. 28, 2010, at A1; James C. McKinley Jr., *Friends' Portrait of Texas Bomb Plot Suspect at Odds With F.B.I.*, N.Y. TIMES, Sept. 28, 2009, at A12; Sabrina Tavernise et al., *Virginia Man is Charged in Plot of Capital Subway*, N.Y. TIMES, Oct. 28, 2010, at A23.

more elaborate, larger-scale plots by groups of foreign-based terrorists.

Indeed, “[s]ince 2009, more than two dozen Americans have been arrested on terrorism-related charges.”¹⁴ More broadly, according to a report released last December from the New York State Intelligence Center that examined thirty-two major terrorism cases in the United States since 9/11, fifty out of the eighty-eight persons “involved in those plots were U.S. citizens at the time of their arrests,” and a clear majority of the individuals were U.S.-born citizens.¹⁵

At the same time we are facing new sources of threats, we also face the possibility of increasingly sophisticated types of attacks, ranging from chemical, biological, and nuclear, to attacks in cyberspace. In just the last year, we have seen the full spectrum of cyber threats, from denial-of-service attacks to attacks with malware.

My second theme and challenge has to do with where responsibility must lie for preventing, detecting, and responding to the evolving threats we now face. Given the diverse nature of the threats and their sources, DHS cannot do it alone. Indeed, we must rely not only on a “whole-of-government” approach, and not only on partnerships with the private sector, state, local, and tribal entities, and our international allies, but also on you—vigilant members of the public.

To begin with, although our nation’s armed forces may be thousands of miles from our shores, living far from loved ones or the comforts of home, they are every bit on the frontlines of our homeland security. They have helped to significantly degrade al-Qaeda’s capabilities to mount major attacks here in the United States and elsewhere throughout the world.

Add to that, the Director of National Intelligence, the CIA, and the entire intelligence community, of which DHS is a member, is producing more and better streams of intelligence than at any time in the past. The National Counterterrorism Center has made critical improvements to our federal watch-listing systems and to the coordination of our counterterrorism efforts. And of course, the federal homeland security enterprise includes our strong partners at the Department of Justice and the Federal Bureau of Investigation, whose work has led to the arrest of more than two dozen Americans on terrorism-related charges since 2009.¹⁶

Then, there is DHS itself, which has nearly 50,000 Transportation Security Officers who work tirelessly to deter and prevent terrorist attacks on passenger planes; more than 20,000

14. *Understanding the Homeland Threat Landscape*, *supra* note 10.

15. *Id.*; N.Y. STATE INTELLIGENCE CTR., THE VIGILANCE PROJECT: AN ANALYSIS OF 32 TERRORISM CASES AGAINST THE HOMELAND 9-10 (2010).

16. *Understanding the Homeland Threat Landscape*, *supra* note 10.

Border Patrol agents who put their lives on the line to protect our borders; more than 10,000 officers and investigators who enforce our immigration laws and bring to justice those who seek to traffic in drugs, arms, and people; more than 40,000 men and women who serve in the U.S. Coast Guard, protecting our maritime borders; thousands of scientists and engineers working on the next generation of security technologies; and the list goes on.¹⁷

But, more importantly, the homeland security enterprise extends far beyond DHS and just the federal government. It requires not just a “whole-of-government,” but a “whole-of-nation” approach. More and more, it is not federal officials who are most capable of responding to terrorist threats here at home but rather local law enforcement, community groups, citizens, and the private sector. That is why Secretary Napolitano often says that “homeland security starts with *hometown* security.”¹⁸ And that is why, in recent years, our approach to confronting these threats has been to build and strengthen partnerships, and to build a shared sense of responsibility for our security—by working with state, local, and tribal law enforcement, our international allies, partners in the private sector, and of course, the American people.

For example, we know that communities can play a vital security role when they forge strong partnerships with local law enforcement. In fact, this is something of an old story in our nation’s history. Americans have long helped to secure their hometowns as well as their homeland, from our tradition of civil defense, to more recent efforts like neighborhood watches and community-oriented policing initiatives.

Indeed, a study just last year found that between 1999 and 2009, more than 80 percent of foiled terrorist plots in the United States were thwarted because of observations from law enforcement or the general public.¹⁹

And at DHS, we work closely with a diverse array of religious, ethnic, and community organizations and leaders. Members of these communities have, in fact, been vital to our efforts to thwart violent acts. And, like all Americans, they play productive and constructive roles in enriching our national life. As the President recently noted in his State of the Union address, in the face of violent extremism, “we are responding with the strength of our communities.”²⁰

17. See Department of Homeland Security Appropriations Bill, H.R. 2012, 112th Cong. (2011).

18. *Understanding the Homeland Threat Landscape*, *supra* note 10 (emphasis in original).

19. See KEVIN STROM ET AL., INST. FOR HOMELAND SEC. SOLUTIONS, BUILDING ON CLUES: EXAMINING SUCCESSES AND FAILURES IN DETECTING U.S. TERRORIST PLOTS, 1999-2009 1 (2010).

20. President Barack Obama, Remarks by the President in State of Union Address

That is why we launched the national “If You See Something, Say Something”²¹ campaign to raise awareness of potential terrorist tactics and to emphasize the importance of reporting suspicious activity to law enforcement. You have no doubt heard this campaign if you have ridden on Amtrak, as some of us did to attend this Symposium. And, we have continued to expand this effort across the country in partnership with professional and collegiate sports, shopping centers, and retailers.

For these same reasons, we have also worked closely with the Department of Justice to expand the Nationwide Suspicious Activity Reporting (“SAR”) Initiative.²² Currently active in over two dozen states and cities—and soon to be used by fusion centers, transit police, and other groups across the country—the SAR initiative creates a standard process for law enforcement to identify and report suspicious activity so relevant information can be shared nationally and analyzed for broader trends.²³

As discussed in another of this morning’s panels, the SAR Initiative is a critical way for federal and local governments to work together to make sure potential threat information is processed and distributed in the most useful possible manner. So, between the SAR Initiative and our efforts to increase the capacity of state and major-area fusion centers, we have made great progress in building our “whole-of-nation” partnership approach to securing the homeland.

This partnership approach to our shared responsibility to secure the homeland against terrorism also extends, as it must, to our global outreach efforts. In the past couple of years, for example, the Department has made historic strides in aviation security. Not only are we accelerating the deployment of new security equipment at our domestic airports that can better detect non-metallic explosives and weapons, we have launched an international initiative that, in October of last year, produced a first-of-its-kind global agreement among 190 nations to increase aviation security standards worldwide.²⁴ During the coming year, we will continue, and perhaps

(Jan. 25, 2011), <http://www.whitehouse.gov/the-press-office/2011/01/25/remarks-president-state-union-address>.

21. See “If You See Something, Say Something™” Campaign, U.S. DEP’T HOMELAND SEC., <http://www.dhs.gov/files/reportincidents/see-something-say-something.shtm> (last visited Aug. 26, 2011).

22. See NATIONWIDE SAR INITIATIVE (NSI), <http://nsi.ncirc.gov> (last visited Aug. 26, 2011).

23. See BUREAU OF JUSTICE ASSISTANCE, NATIONWIDE SUSPICIOUS ACTIVITY REPORTING (SAR) INITIATIVE (NSI) NIEM STANDARDS IN ACTION 2-9.

24. See *International Aviation Screening Standards: Hearing Before the Subcomm. on Aviation Operations, Safety and Security of the H. Comm. on Commerce, Science, and Transportation*, 111th Cong. 7 (2010) (testimony of David Heyman, Assistant Sec’y, U.S. Dep’t of Homeland Sec., Office of Policy and Vicki Reeder, Director, Global Compliance Transp. Sec. Admin., Office of Global Strategies).

complete, negotiations with the European Union on strengthening information sharing in the aviation environment, and extend such information sharing to other continents as well.

We will also build on these efforts by leading an international effort to strengthen the security of the global supply chain, which brings goods and commodities to our shores and across our borders. This includes an initiative called Project Global Shield, which we have launched with the World Customs Organization (“WCO”) and sixty other countries to prevent the theft or diversion of precursor chemicals that can be used by terrorists to make improvised explosive devices.²⁵ It also includes a new initiative with the International Civil Aviation Organization, the WCO, and other international partners to identify and protect the most critical elements of our supply chain from attack or disruption, including key transportation hubs.²⁶ Together with other federal departments and agencies, our goal is to bolster the resiliency of the global supply chain so that if a terrorist attack or natural disaster does occur, the supply chain can recover quickly, and any disruption can be minimized.

So, “[a]s Tom Ridge liked to say when he was [the] Secretary [of Homeland Security], the physical borders of the United States should be the last line of defense, not the first.”²⁷ In these efforts with our international partners, our aim, quite simply, is to ensure the safety of all travelers and all cargo as they travel across the globe.

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These examples lead me to my third theme: the difficult and complex legal questions that inevitably arise as we pursue our counterterrorism mission, and thus, by extension, the crucial role that lawyers play in securing our homeland. In all that we do to build a safe, secure, and resilient homeland, we must never forget that we do so in service of a broader mission, which is to ensure that we do not achieve security at the expense of our freedoms, core values, and the rule of law. Achieving both ends—securing the homeland *and* protecting civil rights, civil liberties, privacy, and the rule of law—is not only a significant challenge we face every day, it is also one acutely felt by the lawyers at DHS. For I believe our lawyers bear a special, though not unique, responsibility to ensure that both ends are met.

Whether it is the government’s authority to search electronic

25. Janet Napolitano, U.S. Sec’y of Homeland Sec., *Securing the Global Supply Chain*, Remarks at the European Policy Center (Jan. 6, 2011).

26. *Id.*

27. Janet Napolitano, U.S. Sec’y of Homeland Sec., *State of America’s Homeland Sec.* Address (Jan. 27, 2011); Tom Ridge, U.S. Sec’y of Homeland Sec., Remarks at the Port of Newark, N.J. (June 12, 2003).

media, such as laptops, at our borders, where the government traditionally has plenary authority to conduct such searches without individualized suspicion; or whether it is the need to adapt laws and policies essential to effective law enforcement to modern computer and communications technologies and methods, such as Facebook and Twitter, consistent with constitutional values and requirements; or whether it is the need to prevent violent extremists, including those in the United States, from being radicalized and carrying out acts of extreme violence against the people, infrastructure, and government institutions of the United States—these are novel and important issues that require innovative, creative, and solution-oriented legal thinking.

Indeed, the very theme of today's portion of this Symposium—"Uncertain Results: Unresolved Legal Issues"—points to the very need for our best and brightest legal minds to come up with the solutions to the many unresolved legal issues that the lawyers at DHS face every day.

Now, some may say, in the nine-and-a-half years since 9/11, we have not made sufficient progress in answering many of the basic legal questions arising in our post-9/11 world. This strikes me as a classic glass-half-empty/glass-half-full debate. Except here, the glass is probably only one-quarter full.

To be sure, there are many unresolved questions. But I believe we have made progress. For example, we have been able to apply existing legal principles to new fact patterns—old wine in new bottles—such as in certain areas of immigration law and the President's authority at the border.

And it bears remembering that our legal system is designed in part to be reactive and deliberative. For example, it took many decades for us to create the legal rules and build the legal infrastructure that frames the modern administrative state; the corporate entities that populate our world today; and our aspirations to form a "more perfect Union" and establish "equal justice under law"—rules and processes that are still unfolding—just to name a few.

Moreover, our constitutional system of separation of powers means, of course, that rapid changes in the law—particularly on issues where the public is deeply divided—are more the exception rather than the rule. And, as we all know, our courts tend to move only incrementally and only with all "deliberate speed." Hence, the urgent need for conferences such as this one: not just to admire the difficult problems, but actually to propose new theoretical constructs and workable solutions.

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So, in sum, our plates are full, but our missions are important and meaningful. I truly believe we are making significant progress in

leading the national effort to help secure the homeland. We will never be able to guarantee that there will never be another 9/11 or similar attack; nor do we want to place the country under a glass dome or sacrifice our civil liberties and civil rights to achieve security. But the hard task of working across the homeland security enterprise and harmonizing competing interests and values is what we do, and it is a worthy call to service.

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On that note, I'd like to close with a few thoughts about how law schools such as Rutgers can help in this call to service. Over the last decade, homeland security has emerged as a major new field in the government and in the private sector. But, up to now, my sense is that these issues have not received sufficient, sustained, and careful attention from the academic community, including our law schools. I believe that this shortcoming hinders our law schools' ability to ensure that they are graduating students able to meet our nation's most pressing challenges. I also believe, however, that this situation could be easily remedied, and that Rutgers Law School could play a central role in doing so.

In particular, I see two key ways that Rutgers and other leading law schools can help to advance the field of homeland security law and, by extension, the work of the Department of Homeland Security. One has to do with evolving the content of legal education, while the other has to do with changing the process of legal education.

First, as should be clear from the nature of the homeland security challenges we face, the field of homeland security law has grown over the last several years to encompass numerous areas of concern for our nation's citizens, immigrants, businesses, state and local governments, and international allies. But law schools have generally not kept up with this change.

What is needed, in my view, is for law schools to develop a "homeland security law" curriculum to prepare their students for this growing area of legal practice. Just as earlier generations of law school leaders made labor law and environmental law into serious and dedicated fields of study, the time has now come to begin to do the same for homeland security law.

Like all legal fields, a good homeland security law curriculum would begin with foundational courses—such as administrative law, constitutional law, and legislation—that are already present at most law schools. These classes would be taught along with the substantive courses that make up homeland security law. Some of those subject areas are obvious, such as immigration law, criminal law, and international trade law. But, others may be less so, such as cyber law, maritime law, privacy law, national security law, aviation law, and government contracts law. Offering a broad range of classes that encompasses these diverse subject areas is critical to preparing

the next generation of lawyers to work in the field of homeland security law. Rutgers is already off to a good start with, among other classes, Dean Farmer's course on national security law.

For such a curriculum to be successful, however, it will not be enough for schools simply to offer each of these classes individually. Rather, it is necessary to take three additional steps to integrate these classes and connect them with the real-world experience of practicing homeland security law.

First, the classes that make up a homeland security law curriculum should be taught with an eye toward the specific challenges faced by homeland security lawyers. For instance, a cyber law class that is offered as part of a homeland security law curriculum should not only focus on the issues raised by the government regulation of private companies involved in cyber matters, as the typical cyber law class might. Rather, it should also focus on the legal issues related to government protection of the cyber infrastructure. These issues include the federal government's legal authority to protect an infrastructure that is largely in private hands; the Fourth Amendment and wiretap law issues surrounding government efforts to detect and respond to malicious code in public or private networks; the complex law-of-war and other public international law aspects of cybersecurity; and the privacy issues raised by the government working with private-sector partners to do so.

Second, in addition to the classes described above, law schools should offer a single, integrative homeland security law class that helps students make the connections among the diverse subject areas and connect those subjects with the type of legal work done by homeland security law professionals. One of the challenges of working at DHS is understanding how limitations that have developed in one area of law, say the law of oil spill response and recovery, might affect the authorities of a component that operates primarily in a different area of law, such as hurricane response and recovery. A key aspect of a successful homeland security law curriculum would be a course that helps students see beyond the silos of individual subject areas to appreciate how these different areas of law might intersect with one another.

Third, a successful curriculum should also give students the opportunity to do externships in government institutions or private offices devoted to homeland security matters. There is little substitute for the hands-on experience that comes from working in a field, and homeland security is no exception. Much of the legal work we do at DHS involves advising the different parts of the Department on the reach and limits of their legal authority and on their interactions with other parts of the Department, other parts of the executive branch, and Congress. So, though we certainly are involved

with our fair share of litigation, it is this day-to-day advice work that is our bread and butter. By giving students the opportunity to do externships, a law school would expose the students to this other aspect of legal practice that is often not reflected in current law school curricula.

My point about externships and exposure to practical experiences leads me to a suggestion about the process of legal education. In addition to developing a homeland security law curriculum, the other major way that law schools could contribute to the homeland security field is by better training their graduates to work effectively in teams.

As I look back on what I learned in law school, as compared with what I learned in law practice, one interesting observation is that while law schools are great at teaching analytical skills and the traditional appellate brief-writing and legal reasoning skills, the law student experience tends to be, at most schools, an individual endeavor. Many of the core tasks—whether it be taking exams or writing papers—are done by students individually. Students are then evaluated on their individual performance. There are generally few opportunities or incentives for students to work together collaboratively, and even fewer situations where students are evaluated on how well they work with one another. But, as many of us can attest to, that is simply not the way legal practice works in the real world. It is certainly not how legal practice works at DHS. At DHS, almost all of our work requires us to work in teams, often in teams that involve non-lawyers. Whether we are working with other attorneys to draft legislation, partnering with an economist to develop a regulation, or joining with a member of the international affairs office to negotiate an international agreement, DHS attorneys' work, like the work of almost all attorneys, invariably involves teamwork.

Because working effectively in a team setting is not always easy, it would be extremely beneficial if law schools gave students more opportunities to learn about working in such an environment before they graduated. Law schools can learn from their sibling professional schools, most notably business schools and medical schools, which provide their students with multiple opportunities to work in teams early in their professional training. This would include learning about leading others, delegating work, finding ways to work cooperatively to achieve goals, and learning how to deal with problematic team members.

The good news is that, under Dean Farmer's leadership, Rutgers Law School has already taken important steps to better address the field of homeland security law, such as through symposia like this one. I support and applaud these efforts. And, I challenge Rutgers to continue to evolve its core approach to teaching law—away from

relying primarily on the case method/examination model—to one that incorporates more real-world-type experiences, such as working in a team setting into the classroom. And, I would love to see Rutgers become a leader in homeland security law by adopting a homeland security curriculum or concentration sequence along the lines I have described.

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A few years ago, Rutgers Law School celebrated its centennial.²⁸ When the Law School was founded in 1908,²⁹ and nearly forty years later when the first Issue of the *Rutgers Law Review* was published,³⁰ many of the homeland security challenges we now face could scarcely have even been imagined. Indeed, even when the *Rutgers Law Record* first began publishing online in 1996,³¹ many of these challenges had yet to receive wide attention. But, ever since the 9/11 attacks, our nation has lived and breathed the challenges of homeland security. The nearly ten years since 9/11 have clearly demonstrated that our nation is more than capable of rising to meet these challenges.

Meeting these challenges, however, is not easy, particularly when the threats facing the United States are constantly evolving. New threats emerge, and old threats take new forms. That is why I hope that when the many talented law students who organized and ran this important Symposium graduate, you will consider joining the Department of Homeland Security, such as through our outstanding and prestigious Honors Attorney program for graduating 3Ls and judicial law clerks.³² With your help, I know the Department of Homeland Security and the nation will be well-prepared to succeed in its mission of building a safe, secure, and resilient homeland where our freedoms, values, and way of life can thrive.

Thank you for inviting me to speak here today. It has been a real honor and privilege for me to be here. Congratulations on hosting a most successful Symposium, and I hope you have come away with a clearer picture of DHS, its priorities and challenges, and how you can join in my call to service.

28. PAUL TRACTENBERG, A CENTENNIAL HISTORY OF RUTGERS LAW SCHOOL IN NEWARK 148 (2010).

29. *Id.* at 21.

30. *100 Years, 100 Milestones*, RUTGERS SCHOOL OF LAW–NEWARK, <http://law.newark.rutgers.edu/about-school/100-years-100-milestones-0> (last visited Aug. 26, 2011).

31. *Id.*

32. *Office of the General Counsel Honors Program*, U.S. DEP'T HOMELAND SEC., http://www.dhs.gov/xabout/careers/gc_1287065042112.shtm (last visited Aug. 26, 2011).