

ASSISTANT SECRETARY OF DEFENSE WASHINGTON, DC 20301-1300

MAR 12 2010

The Honorable Joseph Lieberman Chairman Committee on Homeland Security & Governmental Affairs United States Senate Washington, DC 20510

Dear Mr. Chairman:

I write in response to your letters to Secretary Gates dated November 20, 2009, and December 3, 2009. This response supplements the Department's document production of February 12, 2010.

The Department provides the attached compact disc containing 255 pages of information requested in your letters, specifically: memoranda of understanding between the Department and the FBI that apply to the sharing or dissemination of intelligence, additional DoD instructions and policies on counterintelligence investigations, exploitation and radicalization of individuals, and the guidance issued by Deputy Secretary England on Sept. 13, 2007.

The Department recognizes the importance of congressional oversight. As such, the Department has provided the Committee over 650 pages of documents responsive to the your requests (see Attachment A), and continues to collect responsive information. In addition, I reiterate the Department's offer to provide the Committee Members briefings by a number of the individuals specifically requested by the Committee, including: Mr. Karl Schneider, Army Principal Deputy Assistant Secretary (Manpower and Reserve Affairs); LTG Eric Schoomaker, Army Surgeon General; Ms Gail McGinn, Deputy Under Secretary of Defense for Plans; and James Clapper, Under Secretary of Defense for Intelligence.

However, the Department must balance the oversight role of Congress with the need to preserve the integrity of the ongoing criminal investigation and any potential prosecution, as well as the related reviews that have been directed by the President, the Secretary of Defense and others. Prior to providing additional information or making individuals available to the Committee, we need to ensure that information released does not in any way hinder the active criminal investigation, potential prosecution, or related reviews. Your patience and understanding is greatly appreciated.

The Department continues to support the Committee and its oversight activities. If you have any questions or concerns, please contact Lt. Col. Robert Jackson of my office at (703) 693-3031.

Sincerely,

Elizabeth L. King

Assistant Secretary of Defense

(Legislative Affairs)

Attachments: As stated

cc: The Honorable Susan Collins Ranking Member

Senate Homeland Security and Governmental Affairs Committee Requested Information dated 12-3-2009

- 1. All documents held by DCIS, DIA, NSA, CID, INSCOM, or DSS pertaining to MAJ Hasan prior to Nov. 5, 2009.
 - No responsive documents found.
 - Complete to date
- 2. All communications and summaries of such communications between MAJ Hasan and Anwar al-Aulagi.
 - No responsive documents found. These communications were collected by the JTTFs and are FBI materials.
 - Complete to date
- 3. All communications and summaries of such communications between MAJ Hasan and any individual with known or suspected connections to terrorist organizations or activities or who has espoused Islamist extremist ideology. Please provide reports held by DoD or any of its entities sufficient to demonstrate such individuals' known or suspected connections to such organizations or activities or espousal of such ideology.
 - No responsive documents found.
 - Complete to date
- 4. All communications or documents pertaining to MAI Hasan sent to or received by any DoD entity prior to Nov. 5, 2009, with respect to his communications with Anwar al-Aulaqi or other individual with known or suspected connections to terrorist organizations or activities or who have espoused Islamist extremist ideology, either among DoD entities or with any other intelligence or law enforcement agencies. Please include all transmittal documents and cover sheets and any restrictions placed on dissemination of such information.
 - No responsive documents found.
 - Complete to date
- 5. All documents made pursuant to 5 U.S.C. 552a(c), Accounting of Certain Disclosures under the Privacy Act, related to the disclosure of outside DoD of any record pertaining to MAJ Hasan.
 - Department is in the process of collecting information responsive to this request.
- 6. If not covered by the requests above, all documents that reference in any way MAJ Hasan's contacts with Anwar al-Aulaqi or any other individual with known or suspected connections to terrorist organizations or activities or who has espoused Islamist extremist ideology.
 - No responsive documents found.
 - Complete to date
- 7. Names of all DoD officials in any DoD entity (or who were assigned outside DoD, such as a JTTF) who were aware prior to Nov. 5, 2009, of MAJ Hasan's contact with Anwar al-Aulaqi or any other individual with known or suspected connections to terrorist organizations or activities or who has espoused Islamist extremist ideology.
 - This group of individuals may be involved in the criminal investigation and prosecution and are currently unavailable.
- 8. All memoranda of understanding or other agreements between FBI (or DOJ) and any DoD entity (including but not limited to DCIS) governing the sharing of intelligence, criminal investigation information, or national security investigative information that applied to the sharing or

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dissemination of intelligence or any other information pertaining to any communications between MAJ Hasan and ANWAR al-Aulaqi or any other individual with known or suspected connections to terrorist organizations or activities or who has espoused Islamist extremist ideology.

- Department has provided a partial answer to this request. DoD is in the process of collecting responsive information.
- 9. Guidance issued by Deputy Secretary Gordon England on September 13, 2007, concerning compliance with the Attorney General Guidelines for Domestic FBI Operations
 - Documents provided to Committee
 - Complete to date
- 10. The Report analyzing radicalization or potential radicalization of DoD personnel to violent Islamist extremism discussed in a Nov. 20, 2009, CNN report which dealt with helping DoD identify signs of extremism among DoD personnel.
 - Documents provided to Committee
 - Complete to date

Document	<u>Notes</u>
13 Sep 07 - DecSecDef Memo Interim Procedures	Dec. 3, 2010 letter (II. 9); Feb 16, 2010 spreadsheet (document #18);
Memo for Defense Security Service (DSS), from Dep. Dir., Counterintelligence, Human Intelligence, Disclosure & Security, Re: Maj Malik Nidal Hasan	Dec. 3, 2010 letter (II.5);
Joint Analysis Center Paper Titled "Terrorist Tactics: Exploitation and Radicalization of of US Military Personnel," dtd Aug. 4, 2008 [FOUO]	Dec. 3, 2010 outline (II.a.1-4); Feb 16, 2010 spreadsheet (document #22)
JTTF: Standard MOU Btw the FBI and DCIS, dtd Sep 18, 2007 [FOUO]	Dec. 3, 2010 letter (II.8); Feb 16, 2010 spreadsheet (document #15 & 16);
DODI 5240.04, Subj: Counterintelligence Investigations, dtd Feb 2, 2009	Dec. 3, 2010 outline (II.a.1-4); Feb 16, 2010 spreadsheet (document #20 & 21)
JTTF: Standard MOU Btw the FBI and DOD, dtd Jul 21, 2009 [FOUO]	Dec. 3, 2010 letter (II.8); Feb 16, 2010 spreadsheet (document #15 & 16);
Hasan - Curriculum Vitae (1 August 2008)	Information on Hasan
Medical and Dental Corps Promotion Board Instructions (13 Mar 2008)	Information on promotion boards
Environmental Sciences Paper Titled Is The War on Terrorism a War On Islam (undated)	Feb 16, 2010 spreadsheet (document #6);
Religious Conflicts Among U.S. Muslim Soldiers (Project Report) (June 2008)	Feb 16, 2010 spreadsheet (document #6);
Religious Conflicts Among U.S. Muslim Soldiers (Research Project Request Form) (undated)	Dec. 3, 2010 letter (II. 9); Feb 16, 2010 spreadsheet (document #6);
MAJ Hasan Slides [The Koranic World View As It Relates to Muslims in the U.S. Military]	Draft of presentation slides Feb 16, 2010 spreadsheet (document #6);
MS PPT Presentation, Using the Koran to Understand Muslims and the Establishment of an Islamic State (undated)	Draft of Presentation slides Feb 16, 2010 spreadsheet (document #6);
MS PPT Slides, Using the Koran to Understand Muslims and the Establishment of an Islamic State (2 Copies)	Draft not final version Feb 16, 2010 spreadsheet (document #6);
132506p Handling Dissident and Protest Activities Among Members of the Armed Forces	Dec. 3, 2010 outline (II.a.1-4); Feb 16, 2010 spreadsheet (document #20)

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GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE 1600 DEFENSE PENTAGON WASHINGTON, DC 20301-1600

GENERAL COUNSEL

December 8, 2009

The Honorable Ike Skelton Chairman Committee on Armed Services United States House of Representatives Washington, DC 20515

Dear Mr. Chairman:

Thank you for your recent inquiry seeking the Department of Defense's views about the appropriate limits of Congressional inquiries into the events relating to the Fort Hood shooting on November 5. We appreciate your sensitivity to the need to proceed with caution on this topic and welcome the opportunity to provide the Department's views.

The Administration recognizes the importance of Congressional oversight. Senior officials of the Administration have, since November 5, delivered a series of closed interagency briefings to the House and Senate Armed Services Committees and others in Congress about the incident at Fort Hood, and we will continue briefings to ensure that Congress is kept appropriately informed, subject to the concerns outlined below.

However, as we know you appreciate, each request for information from Congress must be carefully evaluated on a case-by-case basis. In keeping with longstanding Executive Branch custom and practice, the Administration must balance the oversight role of Congress with the need to preserve the integrity of the ongoing criminal investigation and any potential prosecution, as well as the related reviews that have been directed by the President, the Secretary of Defense and others.

As you know, Major Nidal Hasan has been charged with thirteen specifications of premeditated murder under Article 118 of the Uniform Code of Military Justice, and thirty-two specifications of attempted premeditated murder in violation of Article 80 of the UCMJ, and an active and ongoing criminal investigation is being conducted by the Army Criminal Investigations Division and the Federal Bureau of Investigation. Further, on November 6, the President directed an inventory of all intelligence in U.S. government files (including within the Defense Department) that existed relevant to the Fort Hood shooting and Major Hasan. On November 20, Secretary Gates directed an independent Defense Department review, chaired by former Army Secretary Togo West and retired



Admiral Vern Clark that will, among other things, identify and address possible gaps and/or deficiencies in the Department's programs, processes and procedures related to identifying Department personnel who could potentially pose threats to themselves or others. These latter two reviews are being completed within very short time frames. The preliminary results of the intelligence review were provided to the White House on December 1; a report setting forth the findings and recommendations of the Department of Defense review is due to Secretary Gates by January 15, 2010.

Prior to conducting briefings, providing information or making witnesses available to Congress, the Administration will ensure that information released does not in any way hinder the criminal investigation, potential prosecution or related reviews. For example, the criminal investigation could be negatively impacted by:

- Dissemination of information identified by criminal investigators and
 prosecutors as relevant and material in the investigation and potential
 prosecution, including information about the events at Fort Hood on
 November 5, Major Hasan's alleged activities that day and in preparation
 for that day, and Major Hasan's personal life, military career, motives,
 beliefs, state of mind, and alleged associations with others considered
 dangerous or extremist.
- Congressional testimony or statements by persons identified by criminal investigators and prosecutors as potential witnesses in the criminal investigation, or testimony in multiple, parallel investigations, which could undermine efforts to develop reliable and unimpeachable testimony in the criminal proceeding.
- Calling on senior military and civilian leaders in the Department of Defense to comment publicly about Major Hasan or his actions, which creates the risk of an allegation or perception of unlawful command influence in the military justice context.

Further, the Department of Defense requests that the House Armed Services Committee and other congressional committees wait until after the Defense Department review is complete before conducting any public hearings on Fort Hood-related matters that will involve Defense Department witnesses. The Department should be permitted a reasonable amount of time to conduct its own review and collect the facts. We owe it to our men and women in uniform and the American people to review this tragedy quickly, but carefully, to understand what happened. We can assure you that, following this review, and in close consultation and cooperation with Congress, we will take all necessary remedial actions to address any problems that are identified.

We appreciate the role of Congress in ensuring that we do all that is necessary to protect those who serve our country and look forward to continuing to work with you on this matter.

Sincerely,

Jeh Charles Johnson