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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

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January 22, 2010

The Honorable John Brennan
Assistant to the President for Homeland Security and
Counterterrorism and Deputy National Security Advisor
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. Brennan:

We are writing to protest the Executive Branch's failure to fulfill in a timely and satisfactory manner our requests for witnesses and documents as part of the Committee on Homeland Security and Governmental Affairs's investigation into the events surrounding the November 5, 2009, terrorist attack at Fort Hood, Texas.

This investigation is being conducted pursuant to the Committee's authority under Rule XXV(K)(1) of the Standing Rules of the Senate, Section 101 of S. Res. 445 (108th Congress), and Section 12 of S. Res. 73 (111th Congress). The purpose of our investigation is to assess the information the U.S. Government had prior to the shootings and the actions it took in response to that information. Ultimately, the investigation will identify the steps necessary to protect the United States against future acts of terrorism by homegrown violent Islamist extremists.

If we do not address the failures that appear to have occurred prior to the attack at Fort Hood, we will leave our servicemen and women, as well as all Americans, exposed to the continued threat of terrorism. Only a truly independent and comprehensive investigation can ensure the American people that the failures of Fort Hood have been remedied. This was made clear when the Department of Defense issued a public report on Fort Hood this week that failed to even mention violent Islamist extremism.

In furtherance of our investigation, we have made the following formal requests, to which the Executive Branch has yet to respond:

- On November 13, 2009, we wrote to Secretary of Defense Robert Gates to request all policies and regulations related to how the military branches handle extremist personnel and information-sharing with other agencies. We did not receive them.

- On November 20, 2009, we wrote to Secretary Gates to request Major Nidal Malik Hasan's personnel file. We did not receive the file. Our staffs subsequently had a discussion with the Department of Defense's (DoD) General Counsel to explain our investigation generally and to discuss in advance the types of witnesses and documents we would be requesting, and we believed that DOD would be open to negotiating fulfillment of our requests once we formally submitted them – but, as discussed below, that proved not to be the case.
- On December 3, 2009, we wrote to Secretary Gates to request witnesses and documents related to Major Hasan's reported communications with Anwar al-Aulaqi or any other known or suspected violent Islamist extremists and any intelligence or investigative material held by DoD related to Major Hasan or violent Islamist extremism in the military generally. We also submitted a list of witnesses and documents related to Major Hasan's postings at Walter Reed Army Medical Center and Fort Hood and requested a meeting with the Department to develop procedures for ensuring that our investigation would not compromise the prosecution of Major Hasan. DoD ignored our request except for providing a closed briefing with senior DoD intelligence and personnel officials and transmitting a dated report on violent Islamist extremist servicemembers which had already been cited by the media.
- Also on December 3, 2009, we wrote to Attorney General Eric Holder to request witnesses and documents related to the Federal Bureau of Investigation's (FBI) investigation of Major Hasan and policies relevant to investigations and information-sharing by Joint Terrorism Task Forces. We appreciated the closed briefing provided by Deputy FBI Director John Pistole to the Committee. Our staffs also met with FBI officials to review the witnesses and documents we are requesting, and we believed that production of them would be forthcoming. However, we have not received access to FBI witnesses nor received the documents we requested.
- Finally, on December 3, 2009, we wrote to Director of National Intelligence Dennis Blair to request witnesses and documents related to any intelligence concerning Major Hasan, any intelligence concerning any known or suspected violent Islamist extremists with whom he communicated, and Intelligence Community policies related to information-sharing and counterintelligence. We received a general, high-level briefing on information-sharing policies and access to certain documents and policies, and our staffs met with intelligence officials to review the witnesses and documents we are requesting. The Intelligence Community is working to fulfill our document request, and we await its response.

While we support efforts to prevent any interference with the on-going prosecution in the Fort Hood matter, we have not yet received any communications about procedures for fulfilling our requests in a manner that protects the prosecution. This is despite the fact that we understand the Department of Defense already established a process for reviewing Congressional requests related to the Fort Hood shooting in an effort to prevent any interference with the prosecution.

While Congress has received little cooperation from the Executive Branch, the Administration's own investigations have proceeded unimpeded and seemingly with full access to witnesses and documents. DoD released the first report in its internal review of personnel issues related to Fort Hood on January 15, 2010. Judging from the contents of the report, the team conducting the Department's review interviewed the same witnesses and reviewed the same documents – Major Hasan's superiors and associates and documents concerning his performance and conduct – that we requested from the Department last November and December. Likewise, the FBI is conducting an internal review of its role, which obviously cannot be accomplished without interviewing the same witnesses and reviewing the same documents – members of the Joint Terrorism Task Force who were aware of Major Hasan's communications with Anwar al-Aulaqi, and communications between the JTTF and other FBI and DoD personnel – that we requested from the FBI. Clearly, the Executive Branch has prioritized its internal reviews while treating requests from our Committee with a disturbing lack of seriousness.

We urge you in the strongest possible terms to ensure that representatives from DoD and the FBI meet with us next Wednesday, January 27, 2010, or earlier if possible, to present a plan satisfactory to us for complying expeditiously with our requests. Otherwise, we will begin the process of issuing subpoenas to compel compliance.

Sincerely,



Joseph I. Lieberman
Chairman



Susan M. Collins
Ranking Member