



April 27, 2010

The Honorable Joseph I. Lieberman
Chairman
The Honorable Susan M. Collins
Ranking Minority Member
Committee on Homeland Security and
Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman and Senator Collins:

This responds to your letter and subpoenas, dated April 19, 2010, regarding the Committee's investigation into the events surrounding the November 5, 2009, shootings at Fort Hood, Texas.

We appreciate the recent phone conversations with you about the subpoenas and want to confirm that we are prepared to make reasonable accommodations with regard to access to documents and additional briefings. We have already made available many of the documents covered by the subpoenas, including relevant classified records from the Joint Terrorism Task Forces (JTTFs) that are now available for your review in the Office of Senate Security. Indeed, in recognition of the Committee's important oversight interests in this matter, both the Department of Defense (DoD) and the Department of Justice (DOJ) have undertaken substantial efforts to accommodate the Committee's information needs to the fullest extent possible, consistent with our responsibilities.

As agreed during the phone call on Friday, April 23, 2010, DoD will make the redacted personnel, credentialing and training files, and the redacted annex from the DoD review on Fort Hood by Secretary Togo West and Admiral Vern Clark (ret.), *Protecting the Force: Lessons from Fort Hood – Annex: Oversight of the Alleged Perpetrator* (West-Clark) available to Committee members, the full committee staff directors, one counsel and one additional staff person each for the majority and minority. In addition, the documents will remain in the control of DoD, but we will work with the Committee to provide your staff with adequate access for your oversight needs. Notes regarding the documents are permissible, although there should be no disclosure of information from these documents due to the risk of pre-trial publicity and other adverse impacts on the criminal trial. We make these offers based on our recognition of the Committee's important oversight responsibilities and your assurances of protections against the

release of any of this information prior to trial. We believe that, based on those assurances, the release of this information to the Committee under the agreed-upon conditions would not adversely affect the fairness or the timeliness of the criminal proceedings now underway.

As you know, on several occasions, senior officials from our agencies have briefed Members and staff of the Committee about our knowledge of Major Hasan and government actions relating to him prior to the shooting. However, disclosure of the names and Committee interviews of line agents could compromise the criminal prosecution. The agents are potential witnesses at the criminal trial, and congressional interviews prior to the trial could compromise the independent recollections of the agents and provide an opportunity outside the criminal proceedings to question the credibility and reliability of any potential testimony. Moreover, as discussed in your call with the Acting Deputy Attorney General on April 26, 2010, such access to line agents would be inconsistent with long-standing Department of Justice policy to protect line agents from the chilling effects on the impartial performance of their law enforcement responsibilities that would inevitably result from questioning by a congressional committee.

In an effort to mitigate the risk to the criminal case while providing the Committee the information it seeks and to assist the Committee in its oversight role, the Department of Defense and Department of Justice respectfully offer additional briefings by appropriate senior officials about JTTF actions relating to Major Hasan as well as the policies and practices that pertained to those actions. In addition, DoD has offered a briefing regarding its provision of information from the criminal investigation to the internal DoD review conducted by West-Clark. We believe that, coupled with the additional documents we are making available, these briefings will provide a helpful accommodation of the Committee's oversight information needs in this matter. We respectfully request that you accept these briefings in lieu of direct questioning of the line agents. We believe that the briefings we are offering will enable you to assess the adequacy of the policies and procedures the Department of Defense has put in place.

Since November 2009, we have provided your Committee with numerous briefings and nearly one-thousand pages of documents responsive to your requests. These materials cover existing policies and procedures but also are specific to Major Hasan's postings, career development, evaluations and academic record. The Committee was specifically briefed on these topics five times with additional briefings offered but not yet accepted.

We ask that you accept the totality of this information and work with us to answer your questions regarding what happened prior to the events of November 5 in a manner that does not compromise our pending military judicial proceeding. While the military justice process must be zealously protected, we recognize and respect the Committee's determination to ensure that we are doing all that can be done to prevent any similar event from ever happening again. With this offer, we believe we have moved this dialogue significantly in your direction. However, we do

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not believe we can go beyond this point without incurring significant risk to the successful prosecution of Major Hasan.

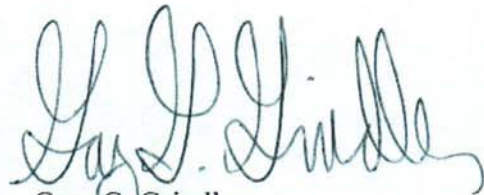
This offer is made in the spirit of cooperation and based on our recognition of the Committee's oversight responsibilities. Given the unique circumstances, however, it should not be considered as a precedent for future committee requests.

Please do not hesitate to call either one of us at your earliest convenience to discuss resolving this issue as well as the other remaining requests of your Committee. We look forward to your response.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. J. Lynn, III". The signature is fluid and cursive, with a long horizontal stroke at the end.

William J. Lynn, III
Deputy Secretary of Defense
U.S. Department of Defense

A handwritten signature in dark ink, appearing to read "Gary G. Grindler". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gary G. Grindler
Acting Deputy Attorney General
U.S. Department of Justice