A TICKING TIME BOMB

COUNTERTERRORISM LESSONS FROM THE U.S. GOVERNMENT'S FAILURE TO PREVENT THE FORT HOOD ATTACK

A SPECIAL REPORT BY
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"A Ticking Time Bomb:
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On November 5, 2009, a lone attacker strode into the deployment center at Fort Hood, Texas. Moments later, 13 Department of Defense (DoD) employees were dead and another 32 were wounded in the worst terrorist attack on U.S. soil since September 11, 2001.

The U.S. Senate Committee on Homeland Security and Governmental Affairs launched an investigation of the events preceding the attack with two purposes: (1) to assess the information that the U.S. Government possessed prior to the attack and the actions that it took or failed to take in response to that information; and (2) to identify steps necessary to protect the United States against future acts of terrorism by homegrown violent Islamist extremists. This investigation flows from the Committee's four-year, bipartisan review of the threat of violent Islamist extremism to our homeland which has included numerous briefings, hearings, consultations, and the publication of a staff report in 2008 concerning the internet and terrorism.

In our investigation of the Fort Hood attack, we have been cognizant of the record of success by DoD and the Federal Bureau of Investigation (FBI) in the ten years since 9/11. We recognize that detection and interdiction of lone wolf terrorists is one of the most difficult challenges facing our law enforcement and intelligence agencies. Every day, these agencies are presented with myriad leads that require the exercise of sound judgment to determine which to pursue and which to close out. Leaders must allocate their time, attention, and inherently limited resources on the highest priority cases. In addition, the individual accused of the Fort Hood attack, Army Major Nidal Malik Hasan, is a U.S. citizen. Even where there is evidence that a U.S. citizen may be radicalizing, the Constitution appropriately limits the actions that government can take.

In presenting our findings and recommendations below, we are grateful for the service given by our nation’s military, law enforcement, and intelligence personnel. Our aim in this investigation was not to single out individual negligent judgment; such instances are for the agencies to deal with, as appropriate. Nor do we seek to second-guess reasonable judgments. Instead, we act under our Constitutional duty to oversee the Executive Branch's performance and thus to determine — independently from the Executive Branch’s own assessment — what, if any, systemic issues are exposed by the Hasan case. The specific facts uncovered by the Committee’s investigation necessarily led us to focus our key findings and recommendations on DoD and the FBI. But the Hasan case also evidences the need for a more comprehensive and coordinated approach to counterradicalization and homegrown terrorism across all agencies, including federal, state, and local entities, which are critical to keeping our country safe.

Our basic conclusion is as follows: Although neither DoD nor the FBI had specific information concerning the time, place, or nature of the attack, they collectively had sufficient information to have detected Hasan’s radicalization to violent Islamist extremism but failed both to understand and to act on it. Our investigation found specific and systemic failures in the government’s handling of the Hasan case and raises additional concerns about what may be broader systemic issues.

Both the FBI and DoD possessed information indicating Hasan’s radicalization to violent Islamist extremism. And, to the FBI’s credit, it flagged Hasan from among the chaff of
intelligence collection for additional scrutiny. However, the FBI and DoD together failed to recognize and to link the information that they possessed about Hasan: (1) Hasan was a military officer who lived under a regimented system with strict officerhood and security standards, standards which his behavior during his military medical training violated; and (2) the government had [REDACTED] communications from Hasan to a suspected terrorist, [REDACTED], who was involved in anti-American activities and the subject of an unrelated FBI terrorism investigation. This individual will be referred to as the “Suspected Terrorist” in this report. 1 Although both the public and the private signs of Hasan’s radicalization to violent Islamist extremism while on active duty were known to government officials, a string of failures prevented these officials from intervening against him prior to the attack.

- Evidence of Hasan’s radicalization to violent Islamist extremism was on full display to his superiors and colleagues during his military medical training. An instructor and a colleague each referred to Hasan as a “ticking time bomb.” Not only was no action taken to discipline or discharge him, but also his Officer Evaluation Reports sanitized his obsession with violent Islamist extremism into praiseworthy research on counterterrorism.

- FBI Joint Terrorism Task Forces (JTTFs) are units in FBI field offices that conduct counterterrorism investigations and are staffed by FBI agents and employees from other federal, state, and local agencies. A JTTF learned that Hasan was communicating with the Suspected Terrorist, flagged Hasan’s initial [REDACTED] communications for further review, and passed them to a second JTTF for an inquiry. However, the ensuing inquiry failed to identify the totality of Hasan’s communications and to inform Hasan’s military chain of command and Army security officials of the fact that he was communicating with a suspected violent Islamist extremist — a shocking course of conduct for a U.S. military officer. Instead, the JTTF inquiry relied on Hasan’s erroneous Officer Evaluation Reports and ultimately dismissed his communications as legitimate research.

- The JTTF that had reviewed the initial [REDACTED] communications dismissed the second JTTF’s work as “slim” but eventually dropped the matter rather than cause a bureaucratic confrontation. The JTTFs now even dispute the extent to which they were in contact with each other in this case. Nonetheless, the JTTFs never raised the dispute to FBI headquarters for resolution, and entities in FBI headquarters responsible for coordination among field offices never acted. As a result, the FBI’s inquiry into Hasan ended prematurely.

As noted, DoD possessed compelling evidence that Hasan embraced views so extreme that it should have disciplined him or discharged him from the military, but DoD failed to take action against him. Indeed, a number of policies on commanders’ authority, extremism, and

1 The redactions in this report were required by the Intelligence Community pursuant to Executive Branch classification policies and are the result of intensive negotiations spanning three months. We take issue with the extent of these redactions, some of which we believe are unjustified, but we have consented to them in order to produce this report in a timely manner.
personnel gave supervisors in his chain of command the authority to take such actions. It is clear from this failure that DoD lacks the institutional culture, through updated policies and training, sufficient to inform commanders and all levels of servicemembers how to identify radicalization to violent Islamist extremism and to distinguish this ideology from the peaceful practice of Islam.

To address this failure, the Department of Defense should confront the threat of radicalization to violent Islamist extremism among servicemembers explicitly and directly and strengthen associated policies and training. DoD launched an extensive internal review after the Fort Hood attack by commissioning a review led by two former senior DoD officials (former Army Secretary Togo West and retired Chief of Naval Operations Admiral Vern Clark) and requiring multiple reviews across the Military Services of force protection and related issues. DoD has also instituted a regimented process for instituting and monitoring implementation of recommendations from these reviews, which included two memoranda from Secretary of Defense Robert Gates assessing and adopting particular recommendations from the West/Clark review. However, DoD – including Secretary Gates's memoranda – still has not specifically named the threat represented by the Fort Hood attack as what it is: violent Islamist extremism. Instead, DoD's approach subsumes this threat within workplace violence or undefined "violent extremism" more generally. DoD's failure to identify the threat of violent Islamist extremism explicitly and directly conflicts with DoD's history of directly confronting white supremacism and other threatening activity among servicemembers. DoD should revise its policies and training in order to confront the threat of violent Islamist extremism directly.

More specifically, DoD should update its policies on extremism and religious accommodation to ensure that violent Islamist extremism is not tolerated. DoD should also train servicemembers on violent Islamist extremism and how it differs from Islamic religious belief and practices. Without this improved guidance and training, the behavioral tendency among superiors could be to avoid proper application of the current general policies to situations involving violent Islamist extremism.

The 9/11 attacks led the FBI Director, Robert Mueller, to act to transform the FBI's institutional and operational architecture. He declared that the FBI's top priority would henceforth be preventing domestic terrorist attacks and that the FBI needed to become an intelligence-centric rather than purely law-enforcement-centric organization. The FBI has made substantial progress in transforming itself in these ways. The FBI is more focused on producing counterterrorism intelligence and more integrated than it had been. Its initiatives are headed in the right direction. To its credit, the FBI moved swiftly after the Fort Hood attack to conduct an internal review, identify gaps, and implement changes in response; the FBI also commissioned an outside review by former FBI Director and Director of Central Intelligence Judge William Webster. Nonetheless, our investigation finds that the Fort Hood attack is an indicator that the current status of the FBI's transformation to become intelligence-driven is incomplete and that the FBI faces internal challenges – which may include cultural barriers – that can frustrate the on-going institutional reforms. The FBI needs to accelerate its transformation.
• In the Hasan case, two JTTFs (each located in a different field office) disputed the significance of Hasan’s communications with the Suspected Terrorist and how vigorously he should be investigated. The JTTF that was less concerned about Hasan controlled the inquiry and ended it prematurely after an insufficient examination. Two key headquarters units—the Counterterrorism Division, the “National JTTF” (which was created specifically to be the hub among JTTFs), and the Directorate of Intelligence—were not made aware of the dispute. This unresolved conflict raises concerns that, despite the more assertive role that FBI headquarters now plays, especially since 9/11 in what historically has been a decentralized organization, field offices still prize and protect their autonomy from headquarters. FBI headquarters also does not have a written plan that articulates the division of labor and hierarchy of command-and-control authorities among its headquarters units, field offices, and the JTTFs. This issue must be addressed to ensure that headquarters establishes more effective strategic control of its field office operations.

• In the Hasan case, the FBI did not effectively utilize intelligence analysts who could have provided a different perspective given the evidence that it had. The FBI’s inquiry focused narrowly on whether Hasan was engaged in terrorist activity—as opposed to whether he was radicalizing to violent Islamist extremism and whether this radicalization might pose counterintelligence or other threats (e.g., Hasan might spy for the Taliban if he was deployed to Afghanistan). This critical mistake may have been avoided if intelligence analysts were appropriately engaged in the inquiry. Since 9/11, the FBI has increased its intelligence focus by creating a Directorate of Intelligence and Field Intelligence Groups in the field offices and hiring thousands of new and better qualified analysts. However, the FBI must ensure that these analysts are effectively utilized, including that they achieve significant stature in the FBI. The FBI must also ensure that all of its agents and analysts are trained to understand violent Islamist extremism.

• In the Hasan case, the FBI did not identify the need to update its tradecraft (i.e., the methods and processes for conducting investigative or intelligence activities) regarding the processing and analysis of communications [REDACTED] until after the Fort Hood attack. This delay led to a failure to identify all of Hasan’s communications with the Suspected Terrorist and the extent of the threat contained within them. The FBI has had numerous successes against homegrown terrorist cells and individuals since 9/11 that have saved countless American lives. However, the FBI should still ensure that all of its tradecraft is systemically examined so that flaws can be corrected prior to failures. The FBI leadership should continue to oversee this element of its transformation to a first-class, intelligence-driven counterterrorism organization.

• In the Hasan case, the JTTF model did not live up to the FBI’s strong vision of JTTFs as an effective interagency information-sharing and operational coordination mechanism. JTTFs have been expanded significantly since 9/11 and are now the principal domestic federal operational arm for counterterrorism investigations and intelligence collection. They perform critically important homeland security functions and have produced numerous successes in disrupting and apprehending potential terrorists. However, the
specific handling of the Hasan case, and systemic disputes between DoD and the FBI concerning JTTFs which remain unresolved, raise concerns that the JTTF model requires additional review and improvement in order for JTTFs to function as effectively as our nation requires.

We ask that DoD and the FBI review and respond to the concerns identified in this report on an urgent basis.

Finally, we request that the National Security Council and Homeland Security Council lead in the development of an integrated approach to law enforcement and intelligence domestically and a comprehensive national approach to countering homegrown radicalization to violent Islamist extremism. The threat of homegrown radicalization goes beyond the capabilities of the law enforcement, intelligence, and homeland security agencies and requires a response from a broad range of our government which will produce plans to translate and implement this comprehensive national approach into specific, coordinated, and measurable actions across the government and in cooperation with the Muslim-American community.
• could Hasan be a future counterintelligence threat putting U.S. military operations at risk.

Put more concretely, the Washington JTTF only looked for overt steps to support terrorist activity and did not assess the broader threat posed by a military officer and his communications with a known type of terrorist called a [REDACTED].

We are concerned based on the Hasan case that the FBI has more work to do in training its personnel as to how being intelligence-driven should affect their operational activities.

**Finding:** The FBI’s inquiry into Hasan was focused on whether Hasan was engaged in overt terrorist activities. The inquiry did not pursue whether Hasan might be radicalizing to violent Islamist extremism, what information his radicalization and relationship with the Suspected Terrorist could contribute to the larger understanding of radicalization, and whether Hasan might become a counterterrorism or counterintelligence threat in the future.

**Recommendations:** The FBI should ensure that agents understand practically how being intelligence-driven should affect their investigative objectives and operational activities.

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**D. Our Investigation Of The Hasan Case Raises Questions About Whether The Joint Terrorism Task Forces Have Become Fully Effective Interagency Coordination and Information-Sharing Mechanisms.**

The FBI has set forth a vision – of which we approve – of JTFs as the premier mechanism for counterterrorism information-sharing and operational coordination among federal entities and with state and local law enforcement. However, the JTTFs did not fulfill this aspiration in the Hasan case, and during our investigation of the Hasan case we learned of larger unresolved policy disputes concerning JTTFs’ functioning.

Neither the Washington JTTF nor the San Diego JTTF cited any law [REDACTED] as a barrier to sharing Hasan’s communications or information derived from those communications with DoD counterintelligence officials. We have found no legal barrier that prevented the JTTFs from notifying DoD counterintelligence officials concerning Hasan’s communications and enlisting those officials’ expertise in investigating Hasan, a servicemember. The Hasan case highlights interagency disagreements and internal JTTF weaknesses that raise our concern that the JTTFs are at risk of becoming essentially an investigative entity serving the FBI’s interests.

1. **DoD and the FBI disagree concerning which agency has the lead for counterterrorism investigations of servicemembers.**

The standard operating procedure of the Army’s operational counterintelligence unit, the 902nd Military Intelligence Group (located within the Army’s Intelligence and Security
Command), is that even its lowest level of investigation of a servicemember includes interviews of employers and associates. Accordingly, had Hasan’s initial [REDACTED] communications (let alone all of them) been shared with the 902nd Military Intelligence Group, then Army counterintelligence officials most likely would have interviewed his superiors and colleagues. Even the most minimal interviews would most likely have shown that his communications were not mere research and instead accorded with his overall displays of radicalization to violent Islamist extremism. Neither the Washington JTTF nor the San Diego JTTF pointed to any law or regulation as the reason that information about Hasan was not shared with DoD counterintelligence officials. At most, the San Diego JTTF initially decided not to circulate the communications as a standard FBI intelligence communication to DoD because of the erroneous belief that Hasan was a military communications officer and thus could have read the report. The San Diego JTTF did not revisit its decision once the Washington JTTF reported that Hasan was a military physician and not a communications officer – and that was a very consequential mistake. Moreover, the Washington JTTF’s concern that sharing might expose the investigation [REDACTED] on the Suspected Terrorist was belied by the fact that the San Diego JTTF – which was responsible for the investigation of that individual – advocated interviews of Hasan and his superiors and colleagues.

Our investigation revealed a significant disagreement between the FBI and DoD concerning whether the FBI or DoD should have the lead for investigating servicemembers for counterterrorism purposes. As noted above, the FBI is the lead federal investigative agency for counterterrorism criminal investigations and intelligence collection within the United States pursuant to statute enacted in 1996 and a Presidential directive issued in 2003. DoD and the FBI had signed an accord called the “Delimitations Agreement” in 1979 and supplemented it in 1996. The Delimitations Agreement states that DoD has the lead for “counterintelligence” investigations of servicemembers. Mirroring various statutes and regulations, the Delimitations Agreement defines “counterintelligence” to include both classic espionage and “international terrorism.”

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165 The DCIS detailer in the Washington JTTF and his FBI supervisor decided not to conduct interviews of Hasan’s superiors and colleagues in part due to the desire to avoid affecting Hasan’s career, which they viewed as a legal imperative under Executive Order 12333 (a key executive order that sets forth operating principles for U.S. Intelligence Community) which mandates that investigative activities be conducted using the least intrusive means. We doubt that a military officer who communicates with a suspected terrorist [REDACTED] while holding a Secret-level security clearance and subject to deployment to a combat zone deserves the same level of concern for his career as a civilian who happens to come up during an investigation. We also note that the San Diego JTTF clearly had a different view of whether interviews were appropriate. Leaving aside whether the least intrusive means test should have prevented interviews (a determination that would not have been supported by the Domestic Investigations Operations Guide itself), the least intrusive means test is relevant only to actual investigative tools such as interviews – not whether the FBI could share Hasan’s communications with Army counterintelligence officials so that they could become aware of Hasan’s contact with the Suspected Terrorist. And in fact, the least intrusive means test was not the driver for the FBI’s failure to share Hasan’s communications with DoD counterintelligence officials.

166 See 18 U.S.C. Section 2332b(f); 28 C.F.R. Section 0.85(f); Homeland Security Presidential Directive 5.

167 Agreement Governing the Conduct of Defense Department Counterintelligence Activities in Conjunction with the Federal Bureau of Investigation (signed by the Deputy Secretary of Defense and the Attorney General).

168 Id., Section 6.C.2.
• DoD argued that the Delimitations Agreement is directly applicable to the investigation of servicemembers for counterintelligence purposes— to include counterterrorism, by definition. A senior DoD counterintelligence official referred to the agreement as its "bible" governing its relationship with FBI on counterintelligence investigations. Thus, under DoD's view, the agreement required that the Army and not the JTTF lead the inquiry into Hasan and that the FBI notify DoD of the information in its possession regarding Hasan.

• In contrast, the FBI argued that the Delimitations Agreement is not operative with respect to counterterrorism and instead applies only to investigations of servicemembers for classic counterintelligence (i.e., espionage). In the FBI's view, statutory and regulatory sources giving the FBI the lead for domestic counterterrorism investigations govern despite the Delimitations Agreement, and that agreement was signed prior to counterterrorism assuming such a preeminent investigative interest and giving rise to counterterrorism-specific organizations such as JTTFs. In addition, according to the FBI, the Delimitations Agreement has been negated by the "course of dealing." Thus, in the FBI's view, the FBI — through the JTTFs — rather than DoD has the lead for counterterrorism investigations of servicemembers. Under the FBI's view, the JTTFs were the appropriate lead for the inquiry into Hasan.

We are concerned that the question of lead responsibility for counterterrorism investigations of servicemembers is unresolved between the FBI and DoD. In addition, we believe that the legal question of which agency technically has the lead in general is secondary to the operational question of which agency is best situated from an expertise and resource perspective to conduct a particular investigation. In other words, just because the FBI is the lead agency for domestic counterterrorism investigations does not mean that the FBI is the sole agency conducting such investigations and that no other agency should have the lead in practice depending upon the circumstances. Having other agencies play a lead role in investigations makes sense in order to maximize inherently limited government resources. In the case of Hasan, DoD arguably was best situated to evaluate the counterterrorism threat posed by him given the existence of an entire Army unit with the mission of guarding against threats from within the Army. Thus, we are concerned that the JTTFs' failure to share information about Hasan with DoD may indicate a tendency within part of the FBI to believe that either a lead merits the FBI conducting a counterterrorism investigation or the lead is not worth investigating even by another agency. This tendency would detract from the optimal use of federal, state, and local capabilities beyond the FBI in order to investigate the most leads in the most efficient and effective manner.

Leaving aside the questions of which agency should lead counterterrorism investigations of servicemembers in principle or in practice, we note that the inquiry into Hasan was not only a counterterrorism investigation but also a classic counterintelligence (i.e., espionage) investigation: Hasan's regard for the Suspected Terrorist, as evident in his first [REDACTED] communications [REDACTED], could eventually have led Hasan to seek to aid the enemy if he was deployed to Iraq or Afghanistan; at the very least, Hasan's regard for the Suspected Terrorist could have led Hasan to disclose Secret-level information — which Hasan was cleared to access —
in an unauthorized manner. Thus, even if the FBI is correct that it should lead investigations of servicemembers regarding counterterrorism (a position not supported by the Delimitations Agreement), the Hasan case was also a classic counterintelligence case and should have been reported to DoD for that purpose. As a result, the Delimitations Agreement would require that DoD have had the lead on the investigation from a counterintelligence perspective.

To the credit of both the FBI and DoD, immediately after the Fort Hood attack they took steps to ensure that DoD was aware of all then-existing FBI counterterrorism investigations involving DoD or DOD-affiliated personnel, devised and implemented a new procedure for providing DoD with notification of such investigations going forward, and initiated negotiations to consolidate and update the architecture of FBI/DoD agreements concerning information-sharing and operational coordination. Under this notification policy, a JTTF is required to inform the National JTTF of a counterterrorism inquiry into a servicemember. The individual in the National JTTF to be informed is the Deputy Unit Chief for DoD matters, who will then notify the military counterintelligence entity in DoD most relevant to that servicemember. Also, within days of the attack, the FBI provided DoD with a list of FBI investigations concerning DoD-affiliated personnel or those with access to DoD facilities. The review found [REDACTED] investigations that had a nexus with DoD and that JTTFs had coordinated with the appropriate military investigative organization in [REDACTED] cases. (We do not know whether such coordination involved the lead for investigations of any servicemembers being transferred to DoD pursuant to the Delimitations Agreement.)

Although the FBI/DoD review found that the FBI coordinated over 90 percent of these cases with DoD, we are concerned about the gap given the clear-cut nature of the obligation. Not only did the failure to share information with DoD concerning Hasan play a major role in the government’s failure to prevent the attack, but the reasons for the failure to share the Hasan information with DoD were not confined to the misjudgments of a select few but rather are related to policy disputes regarding the functioning of JTTFs. As indicated by the adoption of the new policy, the FBI agrees with the importance of informing DoD of investigations of servicemembers, but the key question of which agency should lead these investigations remains outstanding between the FBI and DoD. The FBI and DoD should be sure to resolve all of these questions related to the Delimitations Agreement in principle and in practice as they negotiate the new master DoD/FBI agreement.

2. DoD and the FBI disagree concerning the status of detailees to JTTFs as primary information-sharing channels of JTTF information back to DoD.

Our investigation has also revealed a significant disagreement between the FBI and DoD concerning whether the FBI giving Hasan’s communications to the DCIS agent detailed to the Washington JTTF constituted sharing that information with DoD as a whole: Detailees from an agency to JTTFs are often governed by an agreement between the FBI and that agency covering administrative matters. All such agreements that we have reviewed prohibit a detailee from

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sharing JTTF information with that detailee’s home agency without first receiving permission from an FBI supervisor at the JTTF. The FBI’s agreement with DCIS had this provision.  

- DoD argued that sharing information with a DoD detailee on a JTTF does not constitute sharing that information with DoD as a whole, for three reasons: *First*, each DoD detailee comes from a specific DoD agency and thus cannot represent all of DoD or know what JTTF information would be of interest to another DoD component. *Second*, any particular detailee only sees part of a JTTF’s activities and thus cannot be the main avenue for sharing JTTF information with DoD. *Third*, the requirement that a detailee receive approval from an FBI supervisor prior to sharing information with his home agency means that the FBI effectively has veto power over what information is shared — which is contrary to the FBI’s information-sharing obligations under the Delimitations Agreement. In sum, DoD regards its detailees as primarily augmenting the JTTFs, not being information-sharing avenues — even if the DoD detailee actually leads the JTTF’s investigation in which information of interest to DoD is generated.

- In contrast, the FBI argued that detailees are representatives of their departments and that the requirement for supervisor approval to share information is a low bar. The FBI’s view is that the requirement ensures that the FBI knows when its information is being transmitted outside of the JTTF. The FBI’s view is also that the requirement enables the FBI to coordinate any operational activity that the agency receiving the information may wish to conduct based on it. Thus, the FBI believes that sharing information with a DoD detailee constitutes sharing that information with DoD — even if the detailee is from DCIS in the DoD Office of Inspector General and the relevant DoD entity that would be interested in the information is the Army’s counterintelligence entity, the 902nd Military Intelligence Group.

Thus, under DoD’s view, the sharing of Hasan’s first communications with the DCIS detailee in the Washington JTTF did not constitute sharing that information with DoD as a whole. In contrast, under the FBI’s view, the sharing of the information with the DCIS detailee constituted sharing with DoD as a whole — and it was the DCIS detailee’s decision as to whether the information merited being transmitted to any part of DoD; if the DCIS detailee had decided to share the information with DoD, then per DCIS’s agreement with the FBI he would have needed his FBI supervisor’s approval.

This interagency disagreement is reinforced by an additional factor that our investigation found: the lack of training provided to detailees concerning their purpose for being detailed to a JTTF. DoD’s training of detailees has been episodic and does not articulate the purpose of the detailees being sent to the JTTFs. DoD’s lack of training of detailees arguably reinforces, in silence, DoD’s view that detailees from its components do not represent DoD as a whole. Simultaneously, the FBI’s view of detailees’ purpose is not reflected in its training of them; in

170 See, e.g., Joint Terrorism Task Force Standard Memorandum of Understanding Between the Federal Bureau of Investigation and Defense Criminal Investigative Service (hereinafter FBI/DCIS MOU), 2007, Section IX.A.
other words, the FBI does not instruct detaillees to JTTFs that they should regard themselves as primary information-sharing avenues to their home agencies. The apparent inadequacy of the FBI's training of detaillees was flagged by a Department of Justice Office of the Inspector General report in 2005, which identified the lack of training of detaillees as a critical weakness in the JTTF program. That report faulted the FBI for “not provid[ing] written guidance that defines the roles and responsibilities of” detaillees to JTTFs.\textsuperscript{171} Since then, the FBI has taken steps to train detaillees. However, the most recent FBI training material for detaillees to JTTFs\textsuperscript{172} lacks a discussion of the detaillees' purpose.\textsuperscript{173} Thus, detaillees could master the training but never be informed that the FBI considered them to represent their entire home departments and to be the critical link for ensuring information-sharing.

DoD’s argument that sharing information with a DoD detaillee to a JTTF does not constitute sharing with DoD as a whole is more convincing. As mentioned, the Committee has no evidence that FBI and DoD training of detaillees ever articulated that detaillees represented their departments as a whole. The fact that an FBI supervisor could block the detaillee from sharing that information with DoD proper — with no criteria, as seen by the Committee, developed by the FBI to guide that discretion — implies that DoD detaillees were not a dedicated information-sharing avenue.

3. **FBI corrective action since the Fort Hood attack facilitates information-sharing with DoD but does not resolve the larger policy issues.**

Demonstrating its desire to ensure that JTTFs are effective information-sharing mechanisms, as described above the FBI reacted to the Fort Hood attack by instituting the new notification procedure for ensuring that DoD is informed of any counterterrorism inquiries into servicemembers. This policy appears to supersede any requirement that an FBI supervisor approve the sharing of information with DoD. This new policy appears to answer the specific question of whether DoD detaillees are representatives of DoD as a whole by indicating that they are not — in other words, any issue regarding a servicemember being handled by a JTTF is sent to the National JTTF for transmission to DoD, rather than having DoD detaillees at the relevant JTTF determine whether to inform DoD directly of the information. However, this new policy does not resolve the policy dispute concerning the issue as to whether the sharing of information within a JTTF with a detaillee constitutes sharing that information with the detaillee's home agency.

- This policy dispute is still relevant to FBI/DoD relations because the new notification procedure on its face covers only JTTF investigations of servicemembers, not JTTF investigations of matters that might affect DoD but are not concerning servicemembers. The FBI and DoD should be sure to resolve this question in the new master agreement that they are negotiating.

\textsuperscript{171} Department of Justice, Office of the Inspector General, *The Department of Justice’s Terrorism Task Forces*, No. 1-2005-007 (June 2005), at 68-74, 81-2.


\textsuperscript{173} Id.
In addition, the policy question of whether detailees are representatives of their home agencies is still applicable to other entities that send detailees to JTTFs aside from DoD. We recommend that the FBI and its partner agencies decisively resolve the issue of whether detailees are representatives of their agencies and ensure that detailees receive training to that effect.

4. The FBI’s failure to link Hasan’s first [REDACTED] communications to the Suspected Terrorist to his later ones stemmed in part from JTTF detailees’ lack of access to key information, which suggests a major impediment to JTTFs’ overall effectiveness.

A review of all of Hasan’s communications with the Suspected Terrorist would have shown clearly that Hasan’s communications were not research and merited a thorough investigation. As a result, the decision by FBI supervisors at the Washington JTTF to assign the DCIS agent to an inquiry [REDACTED] was flawed because of his lack of access to and knowledge of the [REDACTED] database. Access to that database was essential for the Hasan inquiry due to Hasan’s subsequent communications.

Our finding in the Hasan case of the DCIS agent’s lack of access to the [REDACTED] database comports with chronic data-access challenges facing detailees to JTTFs identified in prior studies. The Department of Justice’s Office of the Inspector General reported in 2005 that “a majority of” detailees “with clearances did not have direct or complete access to the” FBI’s Automated Case Support system, “even though such access was permitted by policy, which caused delays in their investigations.”174 The lack of access to the Automated Case Support system was eventually solved, but a survey of JTTF detailees conducted in 2007 by a twenty-three-year FBI veteran who had acted as a JTTF supervisor found that detailees’ lack of access to other databases continued even though, in his view, detailees must understand the available databases and be able to extract the necessary information from them in order to be effective JTTF members.175 In fact, the DCIS representative to the National JTTF at the time of the Fort Hood attack not only lacked access to the [REDACTED] database but also was unaware of its existence.176

It is paradoxical that, in the Hasan case, the FBI would rely on a detailee so heavily for the Hasan inquiry but not provide that detailee with the full range of database access and training. The DCIS agent was thus in the unenviable position of being relied upon by the FBI as the lead for the JTTF inquiry into Hasan without having the tools necessary to perform competently.

174 The Department of Justice’s Terrorism Task Forces, at 57.
We are concerned by evidence that this problem goes well beyond the Hasan case. The former JTTF supervisor mentioned above wrote in his report, “The fact that (detailees) are less likely to receive substantive training, database access, and training [on how to operate sources], and yet may be assigned as primary or co-case agent in an investigation, goes against the JTTF concept.”\(^{177}\) The FBI’s internal review after the Fort Hood attack confirmed that “many” detailees to JTTFs have been unaware of that database, although the FBI could not quantify that number. We find it difficult to align the FBI’s view that JTTF detailees are representatives of their home departments for information-sharing purposes with the lack of access of such detailees to the type of information at issue here. Indeed, even if the DCIS agent had considered himself as responsible for representing DoD and serving as a primary bridge for information-sharing to DoD, he would have been unable to share the necessary information due to his lack of access to it.

To its credit, after the Fort Hood attack the FBI increased the training of detailees and FBI agents—3,700 in all—to widen access to the database, with a prerequisite being an understanding of the rules governing [REDACTED].\(^{178}\) We are troubled that the FBI made significant progress toward solving this apparently well-known problem only after a mission failure resulted. In any event, we hope that the FBI’s action will finally solve this problem, and we will monitor progress to ensure that this barrier to effective JTTF operations and information-sharing is resolved completely.

5. **We are concerned that JTTFs are not fulfilling the FBI’s vision of being interagency information-sharing and operational coordination mechanisms but rather may merely be appendages of the FBI.**

Drawing together the issues of the Delimitations Agreement, the status of detailees for information-sharing, and detailees’ lack of access to database, we are concerned JTTFs are not fulfilling the FBI’s vision of being the premier domestic counterterrorism mechanism for interagency information-sharing and operational coordination.\(^{179}\) The question of detailees’ status as information-sharing mechanisms needs to be resolved, and training provided by the FBI and detailees’ home departments needs to articulate their role clearly. The FBI also must ensure that detailees have the training and access to the full array of databases so that they can become full-fledged members of the JTTFs.

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\(^{177}\) *Strategic Change and the Joint Terrorism Task Force*, at 81.


\(^{179}\) The “319 Group,” composed of current and former senior intelligence and law enforcement officials, has written that “the JTTFs operate as a hub-and-spokes system in which intelligence goes up but does not necessarily come back down, and there is little lateral communication. This guarantees FBI control of information, which other agencies resent as contrary to partnership.” The 319 Group, *America’s Domestic Intelligence is Inadequate: The Country Still Lacks a Coherent National Domestic Intelligence-Collection Effort* (June 2010), at 13. A former director of intelligence analysis at the New York Police Department has written that “local officials on JTTFs are functionally federalized: they are given access to classified information and are discouraged from reaching back to their home agencies.” Samuel Rascoff, “The Law of Homegrown (Counter)Terrorism,” in *Texas Law Review* (June 2010), at 1743.
We also believe that improvements are needed regarding the FBI supervisor approval requirement for sharing information outside of a JTF, as mandated by the FBI’s agreements with the other departments providing detailees. This requirement is arguably necessary (leaving aside specific exceptions such as the Delimitations Agreement) so that FBI supervisors can keep tabs on their investigative information and ensure deconfliction among departments. Still, FBI headquarters should clarify expectations to its personnel in writing regarding whether the FBI-supervisor-approval requirement for sharing information outside of the FBI is an administrative step or a substantive hurdle. If the review is a substantive hurdle, then the FBI should justify why such a hurdle is required and clarify the criteria for sharing information. If the review is not a substantive hurdle, then the FBI should educate the departments sending detailees to the JTFs so that there is a common understanding among the FBI and those departments. The FBI also should highlight this requirement in its training of detailees and encourage them to utilize this process for sharing information with their home departments. The FBI might create a formal process to contest an FBI supervisor’s decision that prevents a detailee from sharing information and to protect detailees who file appeals from repercussions.

We remain concerned that the dispute between the FBI and DoD regarding the interpretation of the Delimitations Agreement remains unresolved. More generally, the FBI should ensure that its JTFs do not operate under the belief that they (to use government jargon) “own” counterterrorism investigations as well as the information that those investigations produce. Such a belief could unfortunately result in a JTF believing that, if it determines that a particular individual does not pose a threat, then there is no reason to pass the information to another department. As has been proven time and again in the intelligence context, information that may not appear troubling to one analyst may complete the puzzle for another analyst who has a different perspective or access to other information. In other words, as the Fort Hood case illustrates, information on violent radicalization in the hands of one entity can be misinterpreted, but effective information-sharing can add unique perspectives to help identify threats. Effective operational coordination can help ensure that the entity best situated to act on the threat does so.

**Finding:** JTF personnel never cited any legal restrictions as the reason that Hasan’s communications were not shared with DoD counterintelligence officials. Our investigation surfaced a policy dispute concerning whether detailees to JTFs were representatives of their departments and thus served a major information-sharing function. As revealed in the Hasan case and reinforced by other evidence, detailees to JTFs have often lacked adequate access to databases and training but paradoxically are relied upon to lead JTF investigations. As a result, we are concerned that JTFs may not be fulfilling their intended role as interagency information-sharing and operational coordination mechanisms.

**Recommendation:** The FBI should ensure that JTFs fulfill the broader role of being mechanisms for interagency information-sharing and operational coordination rather than being mere FBI investigative entities and sources of personnel augmentation. Detailees need training and access to databases so that they can be full-fledged members of the JTFs. The FBI
and departments sending detailees should agree upon and train them regarding the purpose of their detail. The FBI also should clarify the requirement that FBI supervisors approve the sharing of information by a detailee with his home agency by setting forth criteria for such approval, creating an appeals process, and evaluating the process periodically. Finally, the FBI should ensure that it facilitates other entities in playing critical investigative roles in countering terrorism and other national security threats, including by sharing appropriate information and having those entities lead investigations in order to use inherently limited government resources and expertise most efficiently and effectively.

E. The FBI’s Training Materials Contemporaneous To The Hasan Inquiry Did Not Adequately Cover The Ideology Of Violent Islamist Extremism.

Hasan’s first [REDACTED] communications, scrutinized by both JTFs, were not conclusive of terrorist conspiracy or that Hasan was radicalizing to violent Islamist extremism. Hasan, however, was a military officer who had sworn an oath to support and defend the Constitution, held a Secret-level security clearance, and could be deployed to a combat zone in which violent Islamist extremists were the enemy. In that light, Hasan’s initial [REDACTED] communications contained significant anomalies that should have triggered additional and urgent investigative activity even though the Officer Evaluation Reports praised his research concerning terrorism. These [REDACTED] communications were [REDACTED], meandered in a “stream of consciousness,” hinted at the answer Hasan wanted to hear, and had content that contravened officership standards. The communications on their face raised questions of whether Hasan was a potential counterintelligence or counterterrorism threat that relying merely on his Officer Evaluation Reports, as opposed to interviewing his superiors and colleagues, could not answer. Yet neither the DCIS agent nor the FBI supervisor at the Washington JTF picked up on the communications’ signals.

The inadequacy of the Washington JTF’s inquiry led us to examine the training materials regarding the understanding of radicalization to violent Islamist extremism among the agents on the front-lines of the FBI’s counterterrorism efforts. The FBI provided the Committee with a swath of training material and analytical reports concerning radicalization in the United States, including the training material that the San Diego JTF received. 180 (FBI lacks records of what training was provided to the DCIS agent in the Washington JTF.) These documents focus on the various behavioral indicators of radicalization (e.g., the individual isolates himself from his friends) but have little information on the ideology of violent Islamist extremism and the reasons for its appeal. In other words, the documents ignore the substance of radicalization, including what violent Islamist extremists believe and why. Understanding the ideology of violent Islamist extremism would assist agents in determining, in conjunction with an individual’s conduct, what degree of risk an individual might present and whether to pursue further inquiry.

180 Federal Bureau of Investigation, Table of Contents for material provided to the Senate Committee on Homeland Security and Governmental Affairs, August 25, 2010.