

UNITED STATES OF AMERICA

Congress of the United States

SUBPOENA
000009

To Robert Gates
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon, Room 3E718
Washington, DC 20301

Greetings:

Pursuant to lawful authority, YOU ARE HEREBY COMMANDED to appear before the COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS of the Senate of the United States, on April 27, 2010, at 10 o'clock a.m., at its Committee Office, 340 Dirksen Senate Office Building, Washington, D.C., 20510, then and there to testify before the committee or its staff what you may know relative to the subject matters under consideration by said committee and to bring with you all materials as set forth in Schedule A, attached hereto and made a part hereof.

A personal appearance will be unnecessary if the materials are delivered to the aforesaid committee office no later than 24 hours in advance of the scheduled return.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

*Given under my hand, by authority vested
in me by the Committee, on this 19th day of
April, 2010.*



*Chairman
Senate Committee on Homeland Security and
Governmental Affairs*

April __, 2010

I made service of the within subpoena by

to the within-named Robert Gates, Secretary of Defense,
at _____

_____ at _____ o'clock __.m., on the _____ day
of April, 2010.

Signed: _____

Robert Gates
Secretary of Defense
Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Schedule A

Please provide the following material as that term is defined in the “Definitions” section below:

1. Major Nidal Malik Hasan’s official personnel file, along with records which constitute or reflect performance evaluations or assessments of performance or conduct, including but not limited to any such documents in personnel, training or credentialing records.
2. The annex labeled “For Official Use Only” to the January 15, 2010 report by the DoD Independent Review Related to Fort Hood entitled *Protecting the Force*.
3. Documents that provide the names and affiliations of personnel from the Defense Criminal Investigative Service, the Naval Criminal Investigative Service, the Defense Intelligence Agency (including the Counterintelligence Field Activity), the National Security Agency, the Army Criminal Investigative Command, the Army Intelligence and Security Command, or the Defense Security Services who (a) served on Federal Bureau of Intelligence Joint Terrorism Task Forces in San Diego, CA, and/or Washington, D.C., and/or the National Joint Terrorism Task Force during the period of time in which information linked to Major Hasan came to those entities (including but not limited to the period from October 1, 2008-November 5, 2009) or (b) had knowledge of Major Hasan prior to November 5, 2009.
4. All transcripts, reports, or summaries of prosecutorial interviews of witnesses that were provided to the staff conducting the DoD Independent Review Related to Fort Hood.

Instructions:

- a. The material requested includes all such material that is in the custody, control or possession of DoD, or within the right of custody, control or possession of DoD, its officers, agents, employees, or representatives, regardless of whether DoD created such material.
- b. The material requested includes material related to DoD's discussions, consultations, correspondence, and communications with other entities, whether such entities are part of the United States Government or not.
- c. DoD is under a continuing obligation to promptly provide additional material responsive to this subpoena.
- d. All material produced in response to this subpoena shall be produced in a form that renders such material susceptible of copying, shall include all attachments, and shall not be redacted.
- e. Material produced in response to this subpoena shall be produced together with copies of file labels, dividers or identifying markers with which such material was associated when this subpoena was served or shall otherwise be identified and dated.
- f. It shall not be a basis for refusal to produce material that any other person or entity also possesses non-identical or identical copies of the same document.
- g. If any of the subpoenaed material is available in machine-readable form, state the form in which it is available and provide sufficient detail to allow the material to be copied to a readable format. If the material requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
- h. If the subpoena cannot be complied with in full, it shall be complied with to the extent possible, with an explanation of why full compliance is not possible.
- i. In the event that any material is withheld on the basis of privilege, provide with the responses to this subpoena the following concerning any such material: (i) the date of the material, its author, his or her occupation, title and employer, all recipients, the occupation, title and employer of each recipient, (ii) the subject matter of the material, (iii) the privilege claimed and a brief explanation of the basis of the claim of privilege, (iv) the type of material, and (v) the relationship of the author and recipient(s) to each other.
- j. If any material responsive to this subpoena was, but no longer is, in DoD's possession, custody, or control, identify the material (stating its date, author, subject and recipients) and explain the circumstances by which it ceased to be in DoD's possession, custody, or control.
- k. For all material produced, indicate the paragraph of Schedule A to which it is responsive.

Definitions:

- I. The term “material” shall mean any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: documents; electronic mail (“email”); working papers; records; notes, including but not limited to handwritten notes; agreements; papers; memoranda; reports; studies; reviews; analyses; summaries; agendas; presentations; minutes; transcripts; graphs; diagrams; photographs; charts; tabulations; presentations; letters; notices; confirmations; telegrams; faxes; telexes; receipts; appraisals; interoffice and intra-office communications; contracts; cables; notations or logs of any type of conversation, telephone call, meeting, or other communication; bulletins; printed matter; computer printouts; teletype; invoices; audio cards or worksheets; computer stored and generated documents; computer databases; computer disks and formats; machine readable electronic files or records maintained on a computer; diaries; questionnaires and responses; data, including but not limited to data sheets and data calls; spreadsheets; bills; accounts; estimates; projections; comparisons; messages; correspondence; and similar information. Material any notation not a part of the original text is to be considered a separate piece of information. A draft or nonidentical copy is considered a separate piece of material within the meaning of the term “material.”
- II. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any material which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
- III. The term “related to” shall be construed broadly and shall include material that is in any way: about, discussing, concerning, affecting, referencing, or reflecting the particular topic as specified in the document request.
- IV. The terms “Department of Defense” and “DoD” shall refer to all elements, components, programs, personnel, contractors, and consultants, regardless of whether paid or unpaid, of the United States Department of Defense, including but not limited to the Military Departments and the Joint Cross-Service Groups.