

## Exhibit E



On January 16, 2009, Hasan sent his third message to Aulaqi through the website application:

Nidal Hasan wrote:

Asalaum Alaikum, Please comment if my flow of logic is correct.  
JazakAllah Khair,

Is it Permissible to Fire Unguided Rockets into Israel  
There is no question that firing unguided rockets into Israel has the potential of indiscriminately killing civilians. The real question is why Hamas would do such a thing. Can one envision a scenario where it would be acceptable to so. Well, what if Israel was and continues to indiscriminately kill and hurt civilians and commit other atrocities in the Gaza territory to serve their expansionary ambitions. One can then begin to at least understand why the Palestinians would do such a thing. In fact it is probably one of the only things they can do to in an attempt to avenge themselves and repulse the enemy.

Realistically it"s akin to a mosquito attacking a man i.e. it"s uncomfortable and annoying but not a real threat. One may consider the firing of missiles into Israel a transgression in the eye of Allah (SWT) because of its indiscriminate nature. However, it one recalls the verse about the permissibility of transgressing albeit a different scenario I believe it still applies. Verse 2:194 states ""The sacred mont. is for the sacred month, and for the prohibited things, there is the Law of Equality (Qisas). Then whoever transgresses the prohibition against you, you transgress likewise against him. And fear Allah (SWT), and know that Allah (SWT) is with AI-Muttaqun. Other verses that seem to apply include the following.

1. And those who when an oppressive wrong is inflicted on them(are not cowed but)help and defend themselves. (42:39)
2. The recompense for an injury is an injury equal thereto (in degree): but if a person forgives and makes reconciliation his reward is due from Allah: for (Allah) loveth not those who do wrong. (42:40).
3. But indeed if any do help and defend themselves after a wrong (done) to them against such there is no cause of blame (42:41).
4. The blame is only against those who oppress men with wrongdoing and insolently transgress beyond bounds through the land defying right and justice: for such there will be a Penalty grievous. (42:42)

Aulaqi did not respond. Two days later, on January 18, 2009, Hasan sent a lengthier message discussing how the Western world views Hamas.

Nidal Hasan wrote:

Assalum Alaikum Sheikh Awlaki,

I know your busy but please comment if the logic of this piece is accurate. am a novice at this and would like reassurance.

May Allah (SWT) reward you.

Hamas is a democratically elected Islamic organization that is trying to establish the law of God in their land. That is why they, as well as other Islamic countries are hated by the West. The Muslims should know that Hamas and other sprouting Islamic states will make mistakes and is not going to be perfect in the implementation of Shariah. The west will be sure to point these deficiencies out. However, the believers have mercy on the believers and are firm against the non-believers. Not the other way around. How is it that Israel and the U.S. can get away with so much in the way of the mischief that they create on the earth but if any Islamic group makes an error, they are ripped apart by the enemies of Islam, some of which call themselves Muslim. with that said, Hamas should be given the benefit of the doubt if any doubt exists in regards to their strategy of rocket firings in an attempt to repel the enemy. To the rest of the Muslim world the believers ask, how is it that while the weak and the oppressed men, women and children in Gaza are pleading: "Our Lord, rescue us from the people of this tyrannous country, and appoint for us a protector from you, and appoint to us, a helper from you, that no one comes to help. Where are the Muslims? So unlike those Islamic states that seem to be choked up when an oppressive wrong is inflicted on the Muslims, Hamas helps and defends its own Muslim people. The Palestinians have sanction to fight because they have been wronged and have been driven from their homes unjustly just because they are endeavoring to be a God abiding state and won't submit to the enemy. And although they have full right to implement the concept of an "eye for an eye" or "injury for injury" and punish the Israelis with the like of that wherewith they are being punished, in reality Hamas seems to be more similar to mosquitoes bothering a camper on a hot summer day. More of a nuisance than an actual threat as measured by the number of causalities and damage those rockets have produced. Even if the Palestinians did forgive and forget the atrocities of the unjust killings of innocent men, women, and children, Israel would continue its transgressing oppression. Hamas and other Islamic countries believe death is better then oppression and do not to fear the blame of the blamers. The blame is only against those Zionists who oppress men with wrong-doing and insolently transgress beyond bounds through the land defying truth and justice and will be held accountable. Hamas, after mutual consultation among their fellow Muslims, seeks to make ready against the Israelis what ever force and war mounts they can muster, so that they may strike terror into the hearts of their enemies and the enemy of God. Even if all that amounts to is annoying rockets that render no real damage. Their goal is to be left alone, which can only be done by ridding themselves of Israeli aggression, blockades, and oppression. Again, the Palestinians could forgive the Zionist regimen but that wouldn't stop the oppression and is thus a mute point. On top of that, the Western world makes clear that it does not want Islamic rule to prevail. Again~ they make that quite clear; not only in their own lands but in the lands of the Muslims as witnessed by their mighty plotting around the world. So in the case of Israelis reckless aggression that costs the lives of innocent women,

children, and men, the law of retribution applies. It' 's a matter of survival. If a country used a nuclear weapons on a country with the intent of destroying it, it would reciprocate in a similar manner hoping it would survive. Hamas and the Muslims hate to hurt the innocent but they have no choice if their going to have a chance to survive, flourish, and deter the zionist enemy. The recompense for an evil is an evil. So, to claim that these rocket attacks go against the spirit of Islam is false. The blame is only against those who oppress men wrongly and insolently transgress beyond bounds through the land defying truth and justice. When the enemies of Allah (SWT) tried to use the Islamic teachings against prophet Muhammad (SAWS) he uprooted those palms trees and defeated them. Even if Hamas and other budding Islamic nations do not make sound decisions at times one would expect Allah (SWT) to forgive them based on their intentions to please him by establishing and defending a country that envisions obedience to Allah (SWT). A good example of this is when an expedition to attack the Meccan caravan during a holy month was made by mistake, Allah (SWT) revealed that is was a grave sin but he not only forgave them but rewarded them further stating that disbelieving in him (SWT) was an even greater sin as a warning to the non believers. Again, Hamas and other Islamic nations use different strategies to defend their land. As they mature through this difficult process they need support from the believers and expect Muslims to suspend their critical judgment and make prayers to Allah (SWT) to help them.

Aulaqi did not respond. SD-Agent [REDACTED] [identified each email as] "Not a Product of Interest" because they contained [REDACTED]

On February 16, 2009, Hasan again wrote to Aulaqi using the website application:

Nidal Hasan wrote:

Please have alternative to donate to your web site. For example, checks/money orders may be sent to .

This can assure privacy for some who are concerned.

Jazaka-Allah-Khair

About a minute later, Hasan sent a second, similar message:

Nidal Hasan wrote:

Assalum Alaikum Wa-RhamatuAllāhi Wa-Barakatu,

Please have alternative methods to donate to your web site. For example, checks/money orders may be sent to .

This can assure privacy for some who are concerned and maximize the amount given.

Jazaka-Allah-Khair

About twenty minutes later, Hasan sent a third message to Aulaqi, this time about a \$5,000 scholarship:

Nidal Hasan wrote:

Assalum Alaikum Wa-RhamatuAllahi Wa-Barakatahu Imam,

InshAllah, A \$5,000.00 scholarship prize is being awarded for the best essay/piece entitled "Why is Anwar Al Awlaki a great activist and leader".

We would be honored if you would award the prize. If you have any questions, concerns, or potential modifications, please e-mail me.

Advertisement will be posted in the Muslim link, in the March 2009 issue.

Jazakallah Khair, ViR Nidal PS-We met briefly a very long time ago when you were the Imam at Dar al Hijra. I doubt if you remember me. In any case I have since graduated medical school and finished residency training.

SD-Analyst reviewed all three messages [redacted] and [identified] them "Not a Product of Interest." [redacted] [The next day] SD-Agent changed the [redacted] [identification] on the third message to "Product of Interest."

On February 19, 2009, Aulaqi responded for the first time to Hasan. He sent an email to NidalHasan@aol.com, the address included in Hasan's messages:

Assalamu alaykum Br Nidal,

I pray this message reaches you at the best state of emaan and health. Jazakum Allahu khairan for thinking good of me. I don't travel so I wont be able to physically award the prize and I am too "embarrassed" for a lack of the better word to award it anyway.

May Allah assist you in your efforts.

Assalamu alaykum  
Your Brother  
Anwar Awlaki

Aulaqi sent the email using the address al\_aulaqi@yahoo.com. Later that day, Hasan replied to that address:

Al-Hamdu-leelah,

It's nice to hear your voice even if its email.

Unfortunately, when I sent the e-mail to you everyone was giving me the green light with tentative reassurances. Everything was in the process to launch the essay contest in time for the upcoming

issue of the Muslim link. Now, obstacles have been placed by Muslims in the community that are petrified by potential repercussions. Allah willing everything will work out in such a way that pleases Allah (SWT). You have a very huge following but even among those there seems to be a large majority that are paralyzed by fear of losing some aspect of dunya. They would prefer to keep their admiration for you in their hearts. In any case, my personal experiences have taught me that if you align yourself to close to Allah (SWT) you will likely not have many friends but plenty of hardships. Even the Prophets use to say when is the help of Allah (SWT) coming. May Allah (SWT) elevate those that please him and render useless the efforts of those that displease him; and ensure that we both are those that please him....ameen.

PS: If you need any assistance, Allah willing I will be able to help. I believe my biggest strength is my financial situation. Of course, and this goes without saying, that everything should be legal and in accordance with the u.s. Law and Allah (SWT) knows best and is the best disposer of affairs and ultimately decides between truth and falsehood. InshaAllah, Allah (SWT) forgives us for our short coming, forbids are body from touching the Hell-Fire, allows plenty of shade on the day of reckoning, and hastens our entrance into Jannah where we will see each other (in Jannah) sipping on non-intoxicating wine in reclined thrones and in absolute and unending happiness. PS: I'm looking for a wife that is willing to strive with me to please Allah (SWT). I will strongly consider a recommendation coming from you.

Jazaka-Allah-Khair, Sincerely, Nidal Hasan SoA(SWT), MD, MPH

SD-Agent reviewed both messages [REDACTED] and [identified] them "Not a Product of Interest."

On February 22, 2009, Aulaqi again emailed Hasan:

Assalamu alaykum Br Nidal,  
Believe it or not I kind of felt that the contest would end up running into red tape. People in that part of the world are becoming very timid and it doesn't look it's getting any better. Thanks for the offer for help. Well it is needed but I just don't know how to do it. There are poor people, orphans, widows, dawa projects, and the list goes on. So if you have any ideas on how to get help across and in accordance to law in a climate that is strict to start with please let me know.  
Tell more about yourself. I will keep an eye for a sister.

Assalamu alaykum  
Anwar

Hasan replied by email that day:

Alaykum salam wa-rhamatullallahı wa-barakatu,

I will keep trying. If Allah (SWT) wants something to occur no one can stop it. My job is to put the effort and have patience. Your various works force the controversial issues to surface and be addressed. If there is going to be a resolution between Islam and the West the difficult issues have to be brought up.? I think this is important. It may take many generations before people realize the gift that Allah (SWT) has given them through your work. But, I see the value now and don't have to wait for your death.

In regards to pleasing Allah (SWT) I, with his mercy, am already involved in giving to the poor, orphans, widows and dawa projects. They are usually connected with the Muslim Community Center in Silver Spring MD but I do alot of work by myself because of the rigid criteria they have for giving to the poor and needy. Whether its time or money I truly believe Allah (SWT)? gives it all back and more. My goal is Jannat Firdaus and I praise and thank Allah (SWT) for giving be the ability to strive, to see the truth, to beg for his forgiveness, and ask for his guidance. If people truly understood the peace they could have by really believing that Allah (SWT) is in control and that he is just testing to see who is the best amongs us, it would be alot' easier to see throught Shaitans promises of poverty and destruction.? I want to be with those who are the best. Imam, if you have any specific projects that you feel are important to get on their feet let me know. I will read up on them and Inshallah I will please Allah (SWT). In regards to a sister for marriage. My name is Nidal Hasan. If you google "CSTS and Nidal Hasan" you will see a picture of me. I currently reside in Silver Sping MD; 301-547-1599. I was born and raised in the U.S .. Both, of my parents are from Palestine but have both passed away (yaAllah-arhamhum). I joined the U.S. military at age 17 as an infantryman. I subsequently received a BS in Biocehmistry, Degree in medicine with residency training in psychiatry, and am just finishing up my fellowship training in Disaster and Preventive Psychiatry. During my workig career I have been a bus boy, a dishwasher, a cook, a cashier, a lab technician, a researcher, and entrepreneur. Allah (SWT) lifted the veil from my eyes about 8-9 years ago and I have been striving for Jannat Firdaus ever since. I hope, Inshallah, my endeavor will be realized. If you know someone that you feel that will be compatible and complement my endeavors to please Allah (SWT) please let me know.

Assalum Alaykum,  
Nidal

SD-Analyst reviewed these two messages [redacted] [and identified] each of them "Not a Product of Interest."

Aulaqi sent no further personal email messages to Hasan.

**D. Washington, D.C.: February 25 – 26, 2009**

FBI Supervisory Special Agent WFO-SSA supervised CT-1, a [REDACTED] squad in the WFO JTTF. On or about February 25, 2009, he read San Diego's Discretionary Action lead on Hasan. Because Hasan was apparently in the U.S. military, WFO-SSA sent an EC on February 25, 2009, assigning the lead to WFO-TFO, a DCIS Special Agent who had joined the WFO JTTF in 2007. WFO-SSA also placed a paper copy of the lead on WFO-TFO's office chair.

WFO-SSA instructed WFO-TFO to conduct an "assessment." He gave him no other instructions. He did not impose a deadline. He expected WFO-TFO to take action within a reasonable time.

At that time, no written FBI policy set a deadline for completing work on Routine leads. Because FBI supervisors reviewed work assignments at quarterly file reviews, informal FBI policy required work on Routine leads to be completed within ninety days. (By comparison, FBI written policy requires that "[e]very attempt must be made to 'mitigate' Guardian incidents within the first 30 days" after assignment. [REDACTED] [FBI policy number redacted])

On May 27, 2009, the ninetieth day after the lead was assigned, WFO-TFO read the lead. During the ninety days between February 25 and May 27, 2009, Hasan communicated with Aulqi five more times.

**E. San Diego: February 25, 2009 – May 27, 2009**

On February 28, 2009, Hasan sent Aulqi an email attaching a document titled "Public Opinion in the Islamic World on Terrorism, al Qaeda, and U.S. Policies," and dated February 25, 2009. Hasan wrote:

Assalum Alaikum Wa-Rhamatu-Allahı Wa-Barakatu,

This well done survey sponsored by the U.S. government through the University of Maryland shows that most Muslims feel that US is trying to undermine Islam. It substantiates an earlier study it did as well as other studies by other organizations. I think you will find it interesting. V/R Nidal

Aulqi did not respond. [REDACTED] [SD-Agent identified] this email as "Not a Product of Interest." That day, Hasan sent Aulqi a link to a news article about Imam Yayha Hendi of the Islamic Society of Frederick, Maryland. Hasan wrote:

FYI:? He is well known in the Greater Washington Area and serves the U.S. military as Imam for the Bethesda medical center. ?A true vision of what the government views as a good role model for all Muslims.

<http://your4state.com/content/fulltext/?cid=53341>

SD-Agent [redacted] [identified] this email as a "Product of Interest." [redacted]  
[redacted] [He also identified] it "Reasonably Appears to be Foreign Intelligence"  
because he initially believed that [redacted].

On March 3, 2009, Hasan emailed Aulaqi

Assalam Alaikum Wa-Rhamatu-Allah! Wa-Barakatu Anwar,  
Please tell me the full amount that you would need to secure the  
domain fee, etc for the time period specified. I have already  
sent a previous request asking that different payment methods be  
used so that the full amount goes to your website and no one gets  
a cut. If you don't have an alternative and don't intend to get  
one please let me know and I can send it through PayPal.  
Jazakallah Khair,  
Nidal

Aulaqi did not respond. SD-Analyst [redacted] [identified] this email as a "Product of  
Interest," but "Non-Pertinent." [redacted]

On March 7, 2009, Hasan wrote Aulaqi again:

I know your busy. Please keep me in your rolodex in case you find  
me useful and feel free to call me collect. I ask Allah (SWT) to  
honor those that please him in this life and the next and to  
render the efforts useless of those who strive against the most  
Gracious. InshAllah we will see each other later.

PS: I really enjoyed the story about the brave person who stated  
"I dont fear any man" but Prophet Muhamad (SAW) said you will  
tremble when you see this man and when he saw the man he indeed  
trembled.

JazakAllah Khair, Nidal Hasan, MD, MPH  
9304 Cedar Lane  
Bethesda Maryland  
20814 (301) 547-1599

Aulaqi did not respond SD-Analyst [redacted] [identified] this email as "Reasonably  
Appears to be Foreign Intelligence" because [redacted]

Almost two months passed before Hasan wrote to Aulaqi again.

On May 17, 2009, the U.S. Army promoted Hasan from Captain to Major.

On May 25, 2009, Hasan visited Aulaqi's website and posted a new message, which the  
website automatically forwarded to al\_aulaqi@yahoo.com. We do not know why Hasan used  
the website instead of the email address Aulaqi had disclosed to him. By that time, the website  
had been updated, and the messages were rendered in a different format when emailed. The  
message read:

Your name: Nidal Hasan  
Email: NidalHasan@aol.com

Message:

Brother Anwar don't fear the blame of the blamers'

When I read this verse (below) I think of you. Most of us have turned back for fear or the for zina of this life. We have thus suspended our critical Judgment for a small price.

Allah (SWT) makes it clear that most wont believe and of those that do; the ones who struggle for his cause are greater in his sight then those who sit back and pray.

O you who believe! Whoever from among you turns back from his religion (Islīq), Allīq will bring a people ([like Anwar Al Awalaki] whom He will love and they will love Him; humble towards the believers, stern towards the disbelievers, fighting in the Way of Allīq, and never fear of the blame of the blamers. That is the Grace of Allīq which He bestows on whom He wills. And Allīq is AllSufficient for His creatures' needs, All-Knower.

Your Brother Nidal

Aulaqi did not respond. [REDACTED] SD-Analyst [identified] this email as "Not Pertinent" and "Not a Product of Interest "

**F. Washington, D.C.: May 27, 2009**

On February 25, 2009, WFO-SSA had assigned the Hasan lead to WFO-TFO and asked him to perform an assessment. Under informal FBI policy, Routine leads were to be closed or transformed into a case within ninety days. On May 27, 2009 – ninety days after WFO-SSA assigned the lead – WFO-TFO read it.

WFO-TFO noticed San Diego's misinterpretation of the DEIDS notation "Comm Officer." WFO-TFO had known others to interpret that notation to mean Communications Officer.

WFO-TFO searched DEIDS to confirm the military status and duty location of Nidal Malik Hasan. He searched the DoD Joint Personnel Adjudication System and learned that Hasan had a Secret clearance and had recently passed a clearance re-investigation. WFO-TFO searched the FBI Telephone Applications database and found no links between the telephone number shown in Hasan's DEIDS report and any "target" numbers. WFO-TFO's search of the FBI's Automated Case Support (ACS) system using Hasan's email address returned only San Diego's EC.

WFO-TFO did not search DWS-EDMS, IDW, or DaLAS. Although he was a member of a [REDACTED] counterterrorism squad, he says he did not know that DWS-EDMS existed. He believes that no one at WFO CT-1 other than an Intelligence Analyst, WFO-Analyst, had access to DWS-EDMS until after the Fort Hood shootings. He had previously reviewed [REDACTED] [FBI-acquired communications], but only in ACS.

WFO-TFO contacted DoD-Analyst, a non-JTTF DCIS Intelligence Analyst based in Arlington, Virginia. He asked DoD-Analyst to obtain records on Hasan from the Defense Manpower Personnel Center in Monterey, California. She emailed the records to him.

WFO-TFO had limited access to DoD personnel files. The files he could review, which DoD-Analyst provided to him, consisted of Hasan's Electronic Personnel File, which totaled approximately 65 pages. The file included, among other things:

- Academic Evaluation Reports and Academic Transcripts from the Uniformed Services University for Health Sciences dating to 1999;
- Six Officer Evaluation Reports (OERs) covering June 2003 to June 2008; and
- Promotion Orders.

The OERs contained almost uniformly positive evaluations of Hasan by his superior officers. For example, the Department Chair of Psychiatry at Walter Reed wrote that Hasan's research on Islamic beliefs regarding military service during the Global War on Terror "has extraordinary potential to inform national policy and military strategy." There were comments that Hasan deserved promotion. The Promotion Orders showed that Hasan had been promoted from Captain to Major ten days earlier, on May 17, 2009. The only derogatory information that WFO-TFO found was an indication that Hasan had not passed his Army Physical Fitness Test between July 2007 and June 2008.

WFO-TFO did not have access to any files maintained locally by Hasan's command. Those files revealed that the program directors overseeing Hasan during his residency and fellowship at Walter Reed and the Uniformed Services University of the Health Sciences ranked him in the bottom 25 percent. He was placed on probation and remediation and often failed to meet basic job expectations such as attendance at work and being available when he was the physician on call. WFO-TFO also did not have access to a memorandum to the National Capital Consortium's Credentials Committee, dated May 17, 2007, faulting Hasan's professionalism and work ethic, which was leaked to the media in the aftermath of the Fort Hood shootings.

Based on what he read, WFO-TFO believed that Hasan's communications with Aulaqi were relevant to his research on Islam and the military. WFO-TFO decided that Hasan was not involved in terrorist activities. He took no further investigative action.

WFO-TFO then consulted WFO-SSA. WFO-SSA did not ask whether Aulaqi had responded to Hasan's messages or whether there were any further emails between Hasan and Aulaqi. He did ask whether WFO-TFO had checked all of the FBI databases. WFO-TFO said that he had.

WFO-SSA and WFO-TFO discussed whether an interview of Hasan or his supervisor would be appropriate. They believed that any overt investigative steps would do more harm than good. Given the [REDACTED] origin of the information [REDACTED], WFO-SSA and WFO-TFO believed that interviewing Hasan would jeopardize the [Aulaqi investigation.] [REDACTED] They could think of no way to interview Hasan without

disclosing the FBI's access to the messages, [REDACTED] which would harm the prime interest – San Diego's investigation of Aulaqi. Neither WFO-SSA nor WFO-TFO believed a pretext interview of Hasan would be appropriate.

WFO-SSA and WFO-TFO also believed that the "least intrusive means" requirement precluded an interview of Hasan or contact with his superior officers. They knew that an interview is a permissible technique for an assessment. They believed, however, that Hasan's messages were relevant to his research and that an interview of Hasan was unnecessary. WFO-TFO believed that an interview would require notification to Hasan's commanding officer; that the interview would probably be briefed up the Army chain of command; and that this would harm Hasan's career. As a result, WFO-TFO considered an interview highly intrusive.

WFO-SSA agreed with WFO-TFO's conclusions – including the determination that Hasan was not a threat – and believed that no further action was appropriate.

Neither WFO-SSA nor WFO-TFO considered approaching Hasan as a potential confidential human source. In their view, a good source had access to information. The two messages to Aulaqi contained no indication that Hasan could provide useful information.

After these actions and discussion – which took place within the span of four hours on the same day, May 27, 2009 – WFO-TFO wrote and WFO-SSA approved the WFO EC response to the lead. After outlining the information gathered, the WFO response concluded:

Due to [REDACTED] Hasan's email contact with Aulaqi, Hasan was not contacted, nor were his command officials. Given the context of his military/medical research and the content of his, to date, unanswered messages, WFO does not currently assess Hasan to be involved in terrorist activities. WFO will re-assess this matter if additional information is identified.

Although the response stated that WFO had "reviewed FBI and Department of Defense databases and record systems" and that Hasan's messages were "to date, unanswered," WFO had not checked DWS-EDMS, [IDW, and DaLAS] to determine whether this was correct.

WFO sent the response to San Diego, ITOS 1 (CONUS 6 and CONUS 2), and the Baltimore Field Office (because Hasan's home address was located in Baltimore's Area of Responsibility).

**G. San Diego: May 27, 2009 – June 11, 2009**

On May 31, 2009, Hasan visited Aulaqi's website and sent another message to him:

Assalum Alaikum Wa-RhamatuAllahi Wa-Barakatuhu brother Anwar;  
InshAllah Khair,

I heard a speaker defending suicide bombings as permissible and have been using his logic in debates to see how effective it really is.

He contends that suicide is permissible in certain cases. He defines suicide as one who purposely takes his own life but insists that the important issue is your intention.

For example, he reported a recent incident where an American Soldier jumped on a grenade that was thrown at a group of soldiers. In doing so he saved 7 soldiers but killed himself. He consciously made a decision to kill himself but his intention was to save his comrades and indeed he was successful. So, he says this proves that suicide is permissible in this example because he is a hero. Then he compares this to a soldier who sneaks into an enemy camp during dinner and detonates his suicide vest to prevent an attack that is known to be planned the following day. The suicide bomber's intention is to kill numerous soldiers to prevent the attack to save his fellow people the following day. He is successful. His intention was to save his people/fellow soldiers and the strategy was to sacrifice his life.

The logic seems to make sense to me because in the first example he proves that suicide is permissible i.e. most would consider him a hero. I don't want to make this too long but the issue of "collateral damage" where a decision is made to allow the killing of innocents for a valuable target. If the Qur'an states to fight your enemies as they fight you but don't transgress. So, I would assume that a suicide bomber whose aim is to kill enemy soldiers or their helpers but also kill innocents in the process is acceptable. Furthermore, if enemy soldiers are using other tactics that are unethical/unconscionable than those same tactics may be used.

JazakAllah Khair, P.S. We miss hearing from you!

Aulaqi did not respond. [REDACTED] SD-Analyst reviewed this email and [identified] it [REDACTED] "Needs Review." SD-Agent then reviewed the email and [REDACTED] [identified] it "Not a Product of Interest" and "Not Pertinent" because he read it as [REDACTED]

#### **H. San Diego and Washington, D.C.: June 11, 2009 – June 15, 2009**

On or about June 11, 2009, SD-Agent reviewed WFO's response to the lead. He was disappointed. He believed the assessment was "slim." The information about Hasan's personnel files was unhelpful, because personnel files typically contain praise. The reasons for not interviewing Hasan seemed to be weak excuses for not taking additional action.

Despite WFO's offer to "re-assess this matter if additional information is identified," SD-Agent and SD-Analyst did not check DWS-EDMS for additional messages between Hasan and Aulaqi.

SD-Agent showed the response to SD-TFO2 and SD-TFO3. They agreed that the assessment was inadequate. SD-TFO2 found it hard to believe that a DoD representative had written the response. SD-TFO3 found the response so strange that he suspected that Hasan was a confidential source for WFO.

SD-Agent decided to follow-up with WFO. He had taken that step only once before in his career, when another Field Office had failed to take action on a lead SD-Agent knew his FBI counterpart WFO-SSA. Instead of contacting him, SD-Agent put SD-TFO3 in what SD-Agent considered the "uncomfortable position" of asking a fellow DCIS Agent why he did not take further action. SD-Agent took this approach to avoid being, in his words, "the heavy" in dealing with a DCIS Agent in another JTTF. He did not consider bringing the issue to his supervisor, to WFO-SSA, or to anyone at Headquarters.

SD-TFO3 contacted a DCIS program manager to ask for background information on WFO-TFO. The program manager spoke positively about WFO-TFO.

SD-TFO3 called WFO-TFO on June 11, 2009. WFO-TFO said he was unable to talk because he was occupied with a shooting incident at the Holocaust Museum. He said they could talk as soon as he was available.

On the following day, June 12, 2009, SD-TFO3 emailed WFO-TFO. The full text of his message reads:

[WFO-TFO],

We just received your response to our lead on 415F-SD-60934, Subj: Anwar Nasser Aulaqi re: Assessment of Nidal Malik Hasan (a US Army Captain, Medical Doctor, Walter Reed).

The case agent wanted me to follow up on this commenting: The response looks a little slim, i.e. limited probing into this individuals background, no contact w/ command and no interview of Hasan.

We were wondering if we were missing something, i.e. we need to read between the lines (Hasan is a friend of WFO)?

[SD-TFO3], Special Agent  
DCIS San Diego Resident Agency

WFO-TFO discussed the email with WFO-SSA. WFO-SSA did not consider contacting SD-Agent. He left the response to WFO-TFO, and advised him to "be nice" in responding. WFO-TFO sent the following email to SD-TFO3 that afternoon:

[SD-TFO3]: Sorry I couldn't get back to you on a hard line yesterday. I never made it into the JTTF scif as I (along with most everyone else) was pulled to work the Holocaust Museum shooting.

Please note that I looked into HASAN as a result of a discretionary lead, "for action as deemed appropriate." From your email, I assume SD desired a deeper investigation. However, since HASAN's contact with Aulaqi [REDACTED], I did not contact him nor his command officials directly. I did however, determine that HASAN was conducting US Army sponsored research that was online with the questions he sent Aulaqi.

Due to [REDACTED] HASAN's email contact with AULAQI, HASAN was not contacted, nor were his command officials. Given the context of his military/medical research and the content of his, to date unanswered email messages, WFO does not currently assess HASAN to be involved in terrorist activities. WFO will re-assess this matter if additional information is identified.

To my knowledge, HASAN is not a CHS nor "a friend of WFO." If you have additional information regarding HASAN's links to terrorism or request any specific action, please share and we will re-assess. BTW, HASAN lives in Baltimore's AOR but works in WFO's AOR. I copied Baltimore on the response EC.

SD-TFO3 forwarded WFO-TFO's email to SD-Agent, with the following cover message:

[SD-Agent],

RE: E-mail from Hasan to Aulaqi

This will not be a satisfying read. That said, I've asked the question of WFO and here's their answer.

A few days later, on or about June 15, 2009, SD-Agent visited SD-TFO3 to discuss WFO-TFO's email. SD-Agent was upset. He again asked SD-TFO3 to call WFO-TFO to find out why WFO had done nothing further.

According to SD-TFO3, he called WFO-TFO again. SD-TFO3 told him that, upon receiving a lead like this one, San Diego would have conducted, at the least, an interview of the subject. SD-TFO3 recalls that WFO-TFO replied, in effect (paraphrased, not a quotation): "This is not SD, it's DC and WFO doesn't go out and interview every Muslim guy who visits extremist websites. Besides, this guy has a legitimate work related reasons to be going to these sites and engaging these extremists in dialogue. WFO did not assess this guy as a terrorism threat." SD-TFO3 also recalls that WFO-TFO indicated that this subject is "politically sensitive for WFO."

WFO-TFO, on the other hand, does not recall receiving another telephone call from SD-TFO3. The FBI does not have records of SD-TFO3's telephone calls from the San Diego JTTF.

According to FBI written policy, "the receiving office" – here, WFO – "will decide what, if any, action to take" on a Discretionary Action Lead. MAOP § 10.2.9(1)(a)-(c). SD-Agent and SD-TFO3 dropped their inquiries to WFO. They believed they had done all they could do.

**I. San Diego: June 16, 2009 – June 17, 2009 and After**

On the next day, June 16, 2009, [REDACTED] Hasan [sent his] final message to Aulaqi. Hasan sent the message via the website. Its full text read:

Assalum Alaikum Wa-RhamatuAllahi Wa-Barakatuhu,

I listened to a lecture that made a parallel between Iblis and the People of the book and was wondering if it was consistent with what the Quran teaches. He basically stated that Allah (SWT)

speaks the truth and should always be obeyed. He told the story of how Allah (SWT) told Adam (AS) to take Shaitan as an enemy and told him to stay away from the tree. Shaitan told Adam that he was his well wisher and the only reason the tree was denied him because it would make him an angel or live forever. So Adam listened to Shaitan and neglected the heedings of his lord. He goes on to say that Allah (SWT) warns us not to take the people of the book as protecting friends (aulia) and the lecturer stated that if we ignore Allah (SWT) like Adam we will have no excuse if we end up in hell fire because of the advice given by the people of the book. He explains that some of the people of the book are sincere in their advice but are ignorant and if you listen to sincere ignorant advice over Allah (SWT) you fall at your own peril. V/R Nidal

SD-Analyst reviewed the email and [REDACTED] [identified] it “Not a Product of Interest” and “Not Pertinent.”

[REDACTED] [By] June 16, 2009, the date of Hasan’s last message, [SD-Agent and SD-Analyst had reviewed more than 20,000 electronic documents as part of the investigation – on average 1,375 per month, or 65 to 70 per work day.] [REDACTED]

The weighty pace of activity on the [Aulaqi investigation] [REDACTED] continued after Hasan’s last message. On July 1, 2009, the Aulaqi investigation shifted from “315” to “415” designation as part of an administrative revision of case classification codes. [REDACTED]

[REDACTED] As of November 5, 2009, the date of the Fort Hood shootings, [REDACTED]

[REDACTED] [SD-Agent and SD-Analyst had reviewed more than 29,000 electronic documents – on average 1,525 per month, or 70-75 per work day.]

The FBI took no further action concerning Hasan until November 5, 2009.

## **J. Aftermath**

Effective July 15, 2009, the U.S. Army transferred Hasan from Walter Reed Army Medical Center to the Darnall Army Medical Center at Fort Hood, Texas. Fort Hood is the Army’s staging area for deployment to combat zones.

On August 16, 2009, Hasan reported to the Killeen Police Department that a fellow Army soldier, John Van De Walker, had vandalized his car. Police arrested Van De Walker on October 21, 2009. According to newspaper reports, he confessed that Hasan’s bumper sticker, which referenced Allah, offended him. He used a key to scratch Hasan’s car.

On July 31, 2009, Hasan purchased a Herstal FN-57 handgun from Guns Galore in Killeen, Texas.

In October 2009, the U.S. Army notified Hasan that he would be deployed to Afghanistan in November 2009.

On November 5, 2009, Hasan entered the Fort Hood deployment center, where he shot and killed thirteen people and wounded 43 others. Nearly five months had passed without any further known personal communications between Hasan and Aulaqi (see Chapter 7).

In the wake of the shootings, Aulaqi publicly hailed Hasan as a role model for his attack on fellow soldiers, stating: “Who would object to that?”

SD-Agent continued to [REDACTED] [investigate Aulaqi] with the assistance of other San Diego JTTF members and ITOS Analysts. SD-Analyst transitioned to a domestic terrorism squad, which he had requested prior to the Fort Hood shootings. WFO-SSA transferred from WFO to [REDACTED] [another FBI] Field Office, where he is a member of [REDACTED] [its] JTTF. WFO-TFO has returned to DCIS as Special Agent in Charge of [one of its offices.] [REDACTED]

[REDACTED] [In mid]-2011, an FBI [REDACTED] report documented an interview with an FBI subject [REDACTED] in which [REDACTED] [the subject] claimed to have met Aulaqi after the Fort Hood shootings. According to [REDACTED] [the subject], Aulaqi told him that Hasan “had contacted him via the Internet and had asked what he could do to help Muslims” and that Aulaqi had “advised Hasan that since he was an American soldier, he should kill other American soldiers.” According to [REDACTED] [the subject], Aulaqi said he had given Hasan “permission to carry out his attacks at Fort Hood.”

Although Hasan did contact Aulaqi via the Internet, we found no evidence, direct or indirect, that Aulaqi made these purported statements to Hasan (see Chapter 7). The evidence shows instead that Aulaqi did not even respond to Hasan’s first message and its question about whether the acts of Muslim soldiers who had killed other soldiers could be reconciled with the Quran. The WASHINGTON POST reported on November 16, 2009, that in an interview with a Yemeni journalist, Aulaqi “said that he neither ordered nor pressured Maj. Nidal M. Hasan to harm Americans....”

On September 30, 2011, the White House and the State Department confirmed reports that Anwar Nasser al-Aulaqi had been killed in Yemen.

## **Chapter 7:**

### **Review of FBI Data Holdings on Nidal Malik Hasan**

#### **A. Introduction and Conclusions**

We conducted, to the degree possible given the criminal investigation and prosecution of Hasan, an independent investigation of all FBI data holdings to assess:

- (1) Whether contemporaneous searches of FBI data holdings on December 17, 2008 (the date of Hasan's first message); January 7, 2009 (the date of San Diego's lead); May 27, 2009 (the date of WFO's response to San Diego); or November 4, 2009 (the day before the shootings) would have revealed other information about Hasan;
- (2) Whether there was any evidence of other electronic communications between Hasan and Aulaqi;
- (3) Whether surveillance of Hasan's email in the weeks before the shootings would have produced any actionable evidence of imminent violence or other wrongdoing; and
- (4) Whether the FBI's post-shooting review of FBI and USIC data holdings on Hasan was accurate and complete.

Our investigation concludes that:

- (1) Contemporaneous searches of FBI data holdings would not have revealed any suggestion of impending wrongdoing by Hasan or any other actionable information about Hasan;
- (2) There is evidence of electronic communications between Hasan and Aulaqi other than the eighteen messages [reviewed by SD-Agent and SD-Analyst] [REDACTED] but those communications were generic mass "news" emails that Aulaqi sent to all persons who subscribed to his website's email list;
- (3) Surveillance of the NidalHasan@aol.com email account in the weeks preceding the shootings would not have produced any actionable evidence of imminent violence or other wrongdoing; and
- (4) The FBI's post-shooting review of FBI and USIC data holdings on Hasan was professional, comprehensive, accurate, and complete. (We did not examine, and

do not express any views on, other elements of the FBI's post-shooting investigation of Hasan.)

**B. Contemporaneous Searches of FBI Holdings**

To assess whether the FBI possessed other information about Hasan as of December 17, 2008 (the date of his first message); January 7, 2009 (the date of the lead); May 27, 2009 (the date of WFO's response to San Diego); or November 4, 2009 (the day before the shootings), we searched the FBI's primary data holdings: ACS, DWS-EDMS, IDW, and DaLAS.

**ACS.** We searched all ACS holdings as of November 5, 2009, using the search terms [REDACTED]. Our search returned only San Diego's EC of January 7, 2009, setting the lead on Hasan.

**DWS-EDMS.** We searched all DWS-EDMS holdings as of November 5, 2009, using the search terms NidalHasan@aol.com [REDACTED].

A full text search using the term NidalHasan@aol.com returned [REDACTED] [some of the] known communications between Hasan and Aulqi. [REDACTED]. The messages sent via Aulqi's website included the search term, but adjacent to other characters, as <NidalHasan@aol.com>. As a result – and underscoring the limitations of literal search technologies – a full text search did not return those messages.

A "participant" search for NidalHasan@aol.com – which is limited to iterations of email accounts – avoided the full text search limitations and returned [all messages between Hasan and Aulqi that SD-Agent and SD-Analyst reviewed.] [REDACTED].

The search [REDACTED] returned [REDACTED] [all messages between Hasan and Aulqi that SD-Agent and SD-Analyst reviewed]; and one match from [REDACTED] [an unrelated investigation] (which we discuss below).

The [REDACTED] matches for [REDACTED] included the [REDACTED] matches for [REDACTED]. We reviewed each of the remaining [REDACTED] matches. [REDACTED]. None involved the Nidal Hasan at issue.

SD-Agent conducted a "participant" search of DWS on or about January 7, 2009, using NidalHasan@aol.com. That search returned the message Hasan sent to Aulqi on January 1, 2009. If SD-Agent or SD-Analyst had searched DWS – and later, DWS-EDMS – using the only

other identifying search terms known at the time [REDACTED] then or at any other time before November 5, 2009, they would have found only one relevant product other than [the messages between Hasan and Aulaqi that SD-Agent and SD-Analyst reviewed] [REDACTED]  
[REDACTED]

Our search revealed the name Nidal Hasan in the text of a March 29, 2006, [REDACTED] mailing list message [REDACTED] [that the FBI acquired in] an investigation unrelated to Aulaqi. The post is titled "Imam Needed for Walter Reed Army Medical Center." Its text reveals that Nidal Hasan is a member of the military by referencing Walter Reed and including one of Hasan's military email addresses as a contact. The person who posted the text appears to have copied it from another online source – probably an Internet post by Hasan.

The full text, which the reviewing Agent on that separate [REDACTED] [investigation] properly tagged "Non-Pertinent," reads:

Assalamu 'alaykum was rahmatullah,

Brothers and sisters,

Walter Reed Army Medical Center is in need of an Imam for jumua'ah prayers held at WRAMC in Washington, DC, as well as to console/make dua for Muslim patients in the Medical Center.

This has the option of becoming a full-time position, based on experience and educational qualification.

For more information, please contact br. Nidal Hasan at Nidal.Hasan@NA.AMEDD.ARMY.MIL.

May Allah bless your efforts, wassalama 'alaykum,

**DaLAS.** We also searched all DaLAS holdings as of November 5, 2009, using the search terms NidalHasan@aol.com [REDACTED]  
[REDACTED]

These searches returned [REDACTED] matches. We reviewed each file. One file was the [REDACTED] "Imam Needed" mailing list message noted above, which had been uploaded to DaLAS on August 5, 2008, in a case unrelated to Hasan. Because of potential attorney-client privileged information, access to that file was restricted to specified users.

None of the other files involved the Nidal Hasan at issue here. As discussed below, as of November 5, 2009, DaLAS did hold one other non-pertinent product involving Hasan; but that product could be tied to Hasan only through an email address that the FBI identified after the shootings. A search of DaLAS using all potential search terms known to San Diego and WFO prior to the shootings could not have returned that item.

### C. FBI Searches of FBI Data Holdings

In the immediate aftermath of the Fort Hood shootings, STAS conducted a search of all FBI data holdings to identify all information in the FBI's possession involving Hasan. STAS identified the [REDACTED] "Imam Needed" post that we located in our search of DWS-EDMS.

The Electronic Communications Analysis Unit (ECAU) and the Digital Media Exploitation Unit (DMX) later conducted a second search in support of the criminal investigation and prosecution. Prior to this search, the U.S. Army Criminal Investigation Division (CID) had supplied ECAU and DMX with all content and metadata for five DoD email addresses associated with Hasan. ECAU had independently determined that, in addition to the NidalHasan@aol.com account, Hasan had a second AOL account with email and instant messaging (AIM) addresses as well as a Yahoo! email account.

FBI Analysts checked these nine email/AIM addresses against four FBI databases (ACS, Clearwater, DaLAS, and DWS-EDMS) as well as several USIC databases. The Analysts found [REDACTED] matches [REDACTED] in FBI holdings.

[REDACTED] [One] match on a search for Nidal.Hasan@NA.AMEDD.ARMY.MIL, returned the "Imam Needed" post [noted above] in DWS-EDMS and DaLAS.

[REDACTED] Another match, on a search for Hasan's other AOL email address, was located in DaLAS on a forensic image of a computer hard drive that the FBI's Newark Division had seized in 2007 pursuant to a criminal warrant in a tax case. This product is also innocuous. It shows that, on February 10, 2005, Hasan had used his other AOL address to visit a non-Jihadist web forum and post a question about the Quran's prohibition on intoxicants. The full text reads:

Asssalum wa Alakum; I discovered Islam 2 years ago and have been building my knowledge base of the Quaran and Sunna. My question is concerning the verse in the Quaran that refers to intoxicants and the multiple hadiths that indicate the prohibition of its use. Perhaps if a islamic leader took charge we would have mediations that seve as great pain relievers as well as anti anxiety medications that arent [sic] intoxicants. However, the best materials we have now are intoxicants ie: valium, ativan, percocet, morphine etc. Should physicians be prescribing these even if the prophet SAWS stated more or less that he hoped whoever takes an intoxicant for medication purposes doesn't [sic] get better.

**Conclusion:** Based on our review, we conclude that contemporaneous searches of FBI data holdings on any date between December 17, 2008, and November 4, 2009, would not have disclosed any other actionable information about Hasan.

**D. Evidence of Other Electronic Communications Between Hasan and Aulaqi**

In the aftermath of the Fort Hood shootings, the FBI obtained access to the existing contents of Hasan's known private and military email accounts. We reviewed the content of Hasan's active private account, NidalHasan@aol.com. We also interviewed FBI personnel tasked with reviewing Hasan's other email accounts and the contents of his computer hard drive and telecommunications devices. There is no certainty that the contents of these accounts and media provide a complete history of Hasan's communications prior to the shootings. Most email systems delete sent messages automatically or after a specified time period, and users may delete messages as they see fit and set rules to delete messages after specified time periods. Moreover, email deleted from Hasan's New Mail, Old Mail, Sent Items, and Trash folders on AOL would not normally be recoverable because AOL regularly purges its systems of deleted email. With these limitations in mind, neither the extensive ECAU/DMX review nor our relatively limited review identified any other personal contact between Hasan and Aulaqi.

Our review of the NidalHasan@aol.com account disclosed, however, that Hasan did receive other electronic communications from Aulaqi. None of these communications was personal or specific to Hasan. Instead, at some date prior to December 21, 2008 – at about the same time he sent his first message to Aulaqi – Hasan had subscribed to a Google FeedBurner list to receive “Anwar Al Awlaki On-Line” email updates, by which he and an unknown number of other subscribers received irregular mass email announcements, articles, and other statements from Aulaqi.

The email updates were issued to FeedBurner – and, in turn, to NidalHasan@aol.com and other subscribers – from the email account donotreply@anwar-alAulaqi.com. [REDACTED]

[REDACTED] The FBI did not acquire these emails until after the Fort Hood shooting. [REDACTED]

Through his subscription, Hasan received and retained at least 29 email updates from Anwar al Awlaki On-Line. The subjects of these updates varied and included, for example:

- A December 20, 2008, email, titled “Salutations to al-Shabab of Somalia,” offered congratulations to al-Shabaab “for your victories and achievements,” asked Allah to “guide you and grant you victory,” and noted that “[o]nly Allah knows that if my circumstances would have allowed I would not have hesitated in joining you and being a soldier in your ranks”;
- A January 5, 2009, email provided Word and .pdf copies of Aulaqi's article “44 Ways of Supporting Jihad”;
- A July 14, 2009, email discussed “Fighting Against Government Armies in the Muslim World,” challenging the Muslims “fighting on behalf of America against the mujahideen in Pakistan, Somalia and the Maghrib.... What kind of twisted fight[t] is this? The blame should be placed on the soldier who is willing to follow orders

whether the order is to kill Muslims as in Swat, bomb Masjids as with the Red Masjid, or kill women and children as they do in Somalia, just for the sake of a miser salary. This soldier is a heartless beast, bent on evil, who sells his religion for a few dollars. These armies are the number one enemy of the ummah. They are the worst of creation. Blessed are those who fight against them and blessed are those shuhada who are killed by them.”

We reviewed Hasan’s messages to Aulaqi in the added context of these mass-mailed messages from Aulaqi. We found no direct connection between the personal messages and the mass-mailed ones.

**Conclusion:** Upon completion of our review of FBI data holdings and interviews, we found no evidence that, in the year preceding November 5, 2009, Hasan and Aulaqi engaged in any person-to-person electronic communications other than in the 18 known messages

#### **E. Post-Shooting Review of Seized Electronic Records and Media**

We examined all available email messages associated with NidalHasan@aol.com that the FBI obtained during the investigation of the shootings. For the reasons noted above, the available email does not likely represent every email that Hasan sent and received using the account.

We read every existing email – 184 messages – that Hasan sent and received in the two weeks before November 5, 2009. We found no obvious evidence of the intentional deletion of email in those two weeks. We concluded that access to that email would not have provided any evidence of an imminent violent act.

The available email received by Hasan in those two weeks consisted primarily of unsolicited messages (“spam”); one of the Aulaqi mass newlist emails discussed above; and emails from other subscription news alerts (Google Alert, for “sharia”); RSS feeds (Islamistwatch.org), and newlists (islamicreliefusa.org, the Middle East Forum, newsrealblog, RadicalIslam.org, ). The subjects of these emails also varied; for example:

- An article entitled “The Third Jihad” from RadicalIslam.org
- An article entitled “Exporting American anti-Americanism to Muslim world” from the Middle East Forum website
- A blog entry entitled “Imam Killed in FBI Shootout Sat on Board of Muslim Lobby Group MANA,” also from the Middle East Forum website

Hasan’s only existing personal emails in that two-week period were businesslike messages to and from U.S. Army representatives concerning his posting to Afghanistan and routine administrative and scheduling matters. We also found two emails exchanged with his brother, Anas Hasan. On October 30, 2009, Hasan wrote to Anas:

Assalum Alaikum Wa-RhamutaAllahu Wa-Baragatuho Wa-Maghfiratu,

Anas, I'm not sure if Eyad told you but I am leaving for Afghanistan next month. I will be leaving sometime next week to visit Eyad and his family in Virginia and than head towards Georgia for some final training before flying out. In any case, I have transferred 21,000 dollars that I owe you into the business account. We are now even- of course you take the 4,000 that you have of mine also for a total of 25,0000. Please take it out ASAP, I don't like things floating and if you lose it for any reason it's your fault..

I have filled out a power of attorney so that you may handle my affairs in case I need something done during the 6 months I'm in Afghanistan or if I die, etc- I'm not sure if it will work for everything but I will give a copy to Eyad to hold when I visit him. In the event that I am incapacitated or not able to use my money/property i.e. captured by the enemy please donate my money/property to the poor as soon as possible- use your judgment but you know I'm trying to maximize by rewards. If I happen to die obviously split it according to the Islamic inheritance law and give the maximum allowable amount to a charity/sadaqa jariyah etc- I think its 1/3 of my wealth. I am not aware of any psychiatrist that have died in Iraq/Afghanistan by enemy fire however it's always good to be prepared.

**This message would raise suspicion only in hindsight. Read in the context of Hasan's impending deployment to Afghanistan, the message appears innocuous and the likely act of a soldier about to be deployed to a combat zone**

On November 1, 2009, Anas sent Hasan an email titled "Cair: Houston Texas Office" that included only a website link. The link provides an online form to report any hate crime or incident of bias, profiling, or other discrimination to the Council on American-Islamic Relations' Houston office. This message may relate to John Van De Walker's vandalism of Hasan's car in August 2009.

In addition to reviewing every available email sent and received by Hasan in the two weeks prior to the shootings, we searched all available email in his AOL account using a series of potentially relevant search terms (including, among others, imam, jihad, gun, handgun, pistol, Herstal, Five-Seven, FN, FN-57). Our searches returned no emails containing those search terms.

**Conclusion:** Electronic surveillance of the NidalHasan@aol.com email account in the weeks preceding the shootings would not have produced any actionable evidence of imminent violence or other wrongdoing.

**Part Two**

**Analysis of FBI Actions**

The Terms of Reference asked Judge Webster to examine “whether the actions taken by the FBI were reasonable under the circumstances known at the time.” Our analysis of those actions cannot proceed from what we now know about Nidal Malik Hasan. Hindsight has uses, but it is not an appropriate tool for assessing the reasonableness and adequacy of actions taken without its benefit. Our review is based on information known or available to the FBI at the time the actions were taken.

We also recognize that reasonableness must be measured in the context of the FBI’s governing authorities and policies, operational capabilities, and the technological environment of the time. For example, as discussed in Chapter 3, the FBI’s governing authorities limit its ability to disseminate information acquired using FISA and require Agents and Task Force Officers to use the “least intrusive means” in conducting assessments and investigations. As discussed below, the FBI’s information technology and document review workflow did not guarantee that all foreign intelligence would be identified in DWS-EDMS.

Finally, we recognize our limited ability to predict what might have happened if different policies or procedures were in effect or personnel had made different decisions or taken different actions. We choose not to speculate. We examine instead the reasonableness of what did happen, in order to identify and recommend, when appropriate, better and corrective policies and practices for the future. We discuss those recommendations in Part Three.

We conclude that, working in the context of the FBI’s governing authorities and policies, operational capabilities, and the technological environment of the time, individuals who handled the Hasan information made mistakes. We do not find, and do not suggest, that these mistakes resulted from intentional misconduct or the disregard of duties. Indeed, we find that each Agent, Analyst, and Task Force Officer who handled the Hasan information acted with good intent. We do not find, and do not believe, that anyone is solely responsible for mistakes in handling the information. We do not believe it would be fair to hold these dedicated personnel, who work in a context of constant threats and limited resources, responsible for the tragedy at Fort Hood. We conclude instead that these committed individuals need better policy guidance to know what is expected of them in performing their duties, and better technology, review protocols, and training to navigate the ever-expanding flow of electronic information.

## Chapter 8

### Knowledge and Information Sharing

We begin by reviewing the FBI's understanding of violent radicalization. We then discuss what the FBI knew about Aulaqi and Hasan on January 7, 2009, when the San Diego JTTF set the lead to the Washington, D.C., JTTF (WFO), and on June 16, 2009, the date of Hasan's last message to Aulaqi. We also consider why the FBI did not share the Hasan information or the opening of the Hasan assessment with the Department of Defense (DoD).

#### A. The FBI's Understanding of Violent Radicalization (Chapter 1)

The FBI's understanding of violent radicalization is consistent with the contemporary views of the psychiatric community.

Before the events reviewed in this Report, the FBI had provided training on its radicalization model to Agents, Analysts, and Task Force Officers, including all personnel involved in the Hasan assessment. As discussed in Part Three, that training has expanded in the aftermath of the Fort Hood shootings.

#### B. The FBI's Knowledge About Anwar al-Aulaqi (Chapter 5)

As of January 7 and June 16, 2009, the FBI knew Anwar al-Aulaqi as an anti-American, radical Islamic cleric and the subject of a Tier [REDACTED] FBI counterterrorism investigation. San Diego believed [REDACTED] that Aulaqi was [developing ambitions beyond radicalization] [REDACTED].

WFO viewed him at that time as merely inspirational. The FBI's full understanding of Aulaqi's operational ambitions developed only after the attempted bombing of Northwest Airlines Flight 253 on Christmas Day 2009. Public awareness of the threat posed by Aulaqi is an even more recent development.

San Diego's lead reasonably described the FBI's knowledge about Aulaqi as of January 7, 2009.

#### C. The FBI's Knowledge About Nidal Malik Hasan (Chapters 6 and 7)

Our searches of the FBI's data holdings confirmed that San Diego's lead contained all of the FBI's actionable knowledge about Hasan as of January 7, 2009 (see Part One, Chapter 7). That knowledge justified an assessment of Hasan.

The FBI's knowledge grew, or should have grown, as San Diego reviewed fourteen further messages from Hasan to Aulaqi and two emails from Aulaqi to Hasan. That knowledge also grew, or should have grown, as WFO conducted its assessment of Hasan in May 2009 and San Diego reviewed WFO's assessment in June 2009.

The totality of that knowledge was limited. The FBI did not have access to all DoD records on Hasan, but only the limited information accessible by DoD personnel assigned as TFOs to San Diego and WFO. As a result, the FBI did not have direct access, until after the Fort Hood shootings, to the disturbing contents of Hasan's personnel files at Walter Reed Army Medical Center and the Uniformed Services University of the Health Sciences or to (among other things) Hasan's medical licensing records.

**D. Information Sharing**

The FBI did not share the Hasan information with any DoD employees other than the DCIS and NCIS personnel assigned to San Diego and WFO.

**1. Notice of the Hasan Assessment (Chapter 6)**

Prior to the Fort Hood shootings, the FBI had no written policy on advising DoD about counterterrorism assessments or investigations of members of the U.S. military, DoD civilian personnel, or others with known access to DoD facilities. FBI Field Offices informally shared information with DoD on a regular basis when these individuals became subjects of assessments or investigations. However, there was no formal procedure and no formal requirement to advise DoD about these assessments and investigations.

When San Diego set the lead to WFO, the FBI knew only that an individual said to be named Nidal Hasan had contacted Aulaqi from the Washington, D.C., area and that a U.S. Army officer named Nidal Malik Hasan worked in Washington, D.C. San Diego did not know with certainty that a U.S. Army officer had contacted Aulaqi until receiving WFO's assessment five months later.

San Diego's EC also set an Information Only ("read and clear") lead to International Terrorism Operations Section (ITOS) 1, Continental United States (CONUS) 6, which oversees the San Diego JTTF's intelligence collection and investigative efforts. SD-Agent's cover email to ITOS 1, CONUS 6 recommended not disseminating the information as an Intelligence Information Report (IIR) and stated: "If this needs to get to the military, WFO might have to do it internally."

In conducting its assessment of Hasan, WFO decided not to contact his chain of command. WFO's assessment, although "slim" in San Diego's estimation, concluded that Hasan was not involved in terrorist activities.

Under these circumstances, and in the absence of a formal policy requiring San Diego, WFO, or ITOS 1 to advise DoD about a counterterrorism assessment of a U.S. soldier, the failure of either JTTF to advise DoD about the information or the assessment was not unreasonable. However, the absence of a formal policy on notifying DoD of assessments or investigations of its personnel was unreasonable.

**2. The Decision Not to Issue an Intelligence Information Report (Chapter 6)**

The FBI did not issue an IIR to DoD and other USIC members concerning Hasan's first two messages. Dissemination of this information would have been appropriate, lawful, and consistent with FBI guidelines.

SD-Agent, SD-Analyst, and SD-TFO2 discussed issuing an IIR about the messages. There was an arguable reason to believe that the messages were foreign intelligence information that could be lawfully disseminated outside the FBI. The first message suggested that a U.S. soldier was seeking Aulaqi's advice on committing violence against fellow soldiers. Given Aulaqi's prominent inspirational role, this information reasonably appears necessary to the ability of the U.S. to protect against international terrorism – in this case, to protect against a U.S. soldier committing acts of violence against fellow soldiers on the battlefield. See 50 U.S.C. § 1801(e).

FBI policy is to share FBI intelligence when dissemination has the potential to protect the U.S. against threats to national security or improve the effectiveness of law enforcement. FBI INTELLIGENCE POLICY MANUAL § 1.7. As noted in Chapter 6, San Diego believed dissemination was permissible if a message reasonably appeared to concern taking part in jihad, engaging in violent conduct, or committing crimes – or if the information was believed valuable to the greater intelligence community. Given Hasan's apparent identity as a U.S. Army officer, his messages met these standards.

San Diego did not issue an IIR because of a mistake in interpreting Hasan's Defense Employee Interactive Data System (DEIDS) record. SD-TFO3 read the abbreviation "Comm Officer" to mean "Communications Officer" rather than "Commissioned Officer." SD-Agent thus believed that Hasan might have access to IIRs. To protect the [REDACTED] Aulaqi investigation [REDACTED], he decided not to issue an IIR and noted his concern about issuing an IIR in an email transmitting the lead to San Diego's overseers at FBI Headquarters, ITOS 1, CONUS 6.

SD-TFO3's misinterpretation of the DEIDS record was understandable; indeed, WFO-TFO noted that he had seen others make the same mistake. The mistake had serious consequences, however, because IIRs are a primary means by which the FBI shares information. An IIR could have provided notice to senior DoD officials of Hasan's communication with Aulaqi.

WFO's response to the lead corrected this mistake and identified Hasan as a U.S. Army Major and physician based at Walter Reed Army Medical Center. San Diego's initial interest in sending an IIR was to identify Hasan. Given WFO's identification of Hasan and its assessment that he was not involved in terrorist activities, San Diego had no reason to revisit the question of issuing an IIR.

## Chapter 9

### Ownership of the Lead

The FBI's operational actions suffered from a lack of clear ownership of the Hasan lead. After setting the lead, San Diego believed that WFO was responsible for Hasan. WFO, on the other hand, acted as if San Diego had responsibility for Hasan. The confusion resulted from the nature of Discretionary Action leads, as well as a lack of written policy guidance, the differing investigative interests of San Diego and WFO, a lack of priority, a misguided sense of professional courtesy, undue deference to military TFOs, and an inversion of the chain of command.

#### A. FBI Policy and Practice (Chapter 6)

No FBI written policy establishes ownership of interoffice leads. The FBI practice, however, is that the receiving office owns the lead. That office is responsible for taking action in response to the lead and determining what, if any, additional investigative steps are warranted. No policy or practice distinguishes "trip wire" and other "standalone" leads from other leads for purposes of ownership.

Effective April 2006, San Diego was the Office of Origin for the Aulaqi investigation. San Diego was thus the FBI Field Office with ultimate responsibility for that investigation. As a matter of practice, but not written policy, WFO owned the Hasan lead and had ultimate responsibility for its outcome. However, the lack of clear policy guidance resulted in neither JTTF taking effective ownership of the lead.

#### B. The Lead (Chapter 6)

San Diego's quarry was a known inspiration for violent extremists. SD-Agent and SD-Analyst believed he had [ambitions beyond radicalization] [redacted]. [redacted] [Their] primary purpose was to use [redacted] [the investigation] to gather and, when appropriate, disseminate intelligence about Aulaqi [redacted]. The "trip wire" effect of [redacted] [the investigation in identifying other persons of potential interest] was, in SD-Agent's words, a "fringe benefit." Certainly it was not the purpose or focus of the [redacted] investigation.

Upon reading Hasan's December 17, 2008, message to Aulaqi, SD-Agent and SD-Analyst identified a potential threat. Hasan asked Aulaqi whether a Muslim in the U.S. military would be considered a martyr for committing violent acts against fellow soldiers. SD-Agent's initial instinct was to determine whether the sender was a U.S. soldier. SD-TFO3 identified a U.S. Army officer named Nidal Malik Hasan who worked at Walter Reed Army Medical Center in Washington, D.C. SD-Agent set a lead to WFO because Hasan worked in its Area of

Responsibility. Before setting the lead, he checked DWS to determine if Aulaqi had responded to the email. He found a second email from Hasan expressing sympathy for the Iranian government.

SD-Agent set a Routine Discretionary Action Lead to WFO that contained both messages. The messages contained no suggestion of imminent violence and no overt threat. Because the lead did not demand action within 24 hours, FBI policy required San Diego to set the lead in the ordinary course of business – and thus, as a Routine lead. See MIOG Part II, § 16-1.4(2). Because conventional practice was to give the receiving office discretion in handling assessments of potential threats in its Area of Responsibility, the lead was “[f]or action as deemed appropriate.” SD-Agent had set prior leads on other “trip wire” contacts with Aulaqi. Each had been a Routine Discretionary Action lead.

The decision to set a Routine Discretionary Action lead was reasonable under the circumstances and then-existing policies. The follow-up, however, was not adequate.

San Diego’s EC also set an Information Only lead to ITOS 1, CONUS 6 at FBI Headquarters. SD-Agent’s cover email stated, in part: “If this needs to get to the military, WFO might have to do it internally.” This message indicates SD-Agent’s belief that, if WFO established that a U.S. Army officer sent the messages, WFO was responsible for notifying DoD about any assessment or investigation of Hasan. It also underscores San Diego’s belief that WFO was responsible for Hasan.

After setting the Hasan lead, SD-Agent and SD-Analyst returned their attention to the Aulaqi investigation. Hasan had no apparent connection to Aulaqi. He had contacted Aulaqi through his website, which suggested that he was a stranger. Nothing in his first two messages suggested an association with Aulaqi. Aulaqi had not responded to him. Because the Hasan lead had no direct relationship to the Aulaqi investigation – which did not need and was not waiting on its results – San Diego believed that Hasan was WFO’s responsibility. As a result, SD-Agent and SD-Analyst did not record Hasan’s name or email address for future reference. Without a DWS-EDMS [REDACTED] tool to assist them in tracking [REDACTED] [and correlating certain email data or to link a new message with earlier messages,] they reviewed sixteen further Hasan-Aulaqi messages over the next five months without tying them to the lead.

### **C. The Response (Chapter 6)**

San Diego knew little about Nidal Hasan, but the available information suggested that a U.S. Army officer sympathetic to the Iranian government might be communicating with an Islamic extremist and radicalizer about violence against fellow soldiers. This potential threat deserved reasonably prompt action.

San Diego set the lead on January 7, 2009. SD-Agent believed that WFO, the receiving Field Office, would assign leads within 48 hours of receipt. FBI written policy requires Immediate and Priority leads to be assigned and resolved within two and twenty-four hours, respectively. See MIOG Part II, § 16-1.4(2). There is no formal policy guidance on the assignment or resolution of Routine leads. The timing of assignments thus depends on the

personal practice of the receiving supervisor. That timing, in turn, is audited at the Field Office/JTTF level. In contrast, FBI written policy directs supervisors to assign assessments generated on the Guardian Threat Tracking System within five business days of the receipt of the Guardian incident. A Headquarters unit, the Assessment Response Team, audits compliance with the Guardian policy.

At WFO, WFO-SSA did not read and assign the lead until February 25, 2009, nearly fifty days after the lead was set. The lead arrived when WFO was dealing with threats involving President Obama's inauguration. That does not excuse a failure to take the simple step of reading and assigning a lead within a reasonable number of days after its receipt.

There is no formal FBI policy that sets a deadline for the completion of work on Routine leads. Because file reviews occur on a quarterly basis, informal FBI policy requires personnel to complete work on Routine leads within ninety days of assignment. In the context of Guardian-based assessments, on the other hand, FBI written policy provides that "[e]very attempt must be made to 'mitigate' Guardian incidents within the first 30 days." [REDACTED] [FBI policy number redacted]. An extension of this 30-day deadline is permitted only with the written justification of a supervisor.

After WFO-SSA assigned the lead, WFO-TFO waited ninety days – until the day his work on the lead was supposed to be completed – to read it and take action. WFO-TFO could not recall why the work was put off until the ninetieth day. The timing could be coincidental. We believe, however, that the ninety-day delay in even reading the lead, let alone taking action, was unreasonable. That delay may have affected the shape, scope, and outcome of WFO's assessment of Hasan, which took place in four hours on that ninetieth day.

Five months passed before WFO responded to San Diego's lead. The delay in WFO's response pushed Hasan further from the minds of SD-Agent and SD-Analyst, and may have contributed to their failure to connect other Hasan-Aulaqi communications with the lead.

#### **D. The Impasse (Chapter 6)**

WFO had an obligation to assist San Diego in the Aulaqi investigation. WFO also had an obligation to determine the importance of the lead to its Area of Responsibility. WFO lacked policy guidance, however, on which office had ultimate responsibility for the lead.

Although the lead identified a potential threat in the Washington, D.C., area, WFO-SSA and WFO-TFO treated Hasan as part of San Diego's investigation of Aulaqi. This perspective appears to inform their apprehension about interviewing Hasan and conducting a more expansive assessment without first checking with San Diego. Yet WFO declined to take further action even after San Diego criticized WFO's assessment as "look[ing] a little slim" given "limited probing into [Hasan's] background, no contact [with] command, and no interview of [Hasan]." This message indicated that San Diego expected, at the least, that WFO would contact Hasan's command and interview Hasan. WFO did not take those steps and instead offered to "re-assess" if San Diego "request[ed] any specific action."

If SD-TFO3's recollection is accurate, his final phone call with WFO-TFO reflected the failure of either JTTF to take ownership of the Hasan threat. Without clear policy direction, each

looked to the other as responsible and as the final decision-maker. As a result, nothing further was done.

**E. Deference to Military Task Force Officers (Chapter 6)**

Both Field Offices compounded the lack of ownership by deferring to military TFOs.

SD-Agent asked DCIS and NCIS TFOs in San Diego to determine whether Hasan was a member of the U.S. military. He also involved those TFOs in the decision about whether to circulate an IIR on Hasan. Those actions were reasonable and prudent. Interagency synergy is a prime reason for the JTTF Program.

That synergy weakens, however, when the result is that TFOs assume sole responsibility for investigating members of their own departments or agencies. WFO-SSA's assignment of the lead to WFO-TFO had practical advantages. As a DCIS Agent, WFO-TFO had access to DoD resources and databases that were not available to FBI Agents and Analysts. He also had an insider's knowledge of DoD practices and procedures that could prove vital to an assessment of a service member. However, he also brought the subjectivity of an insider to the assessment. In this case, that subjectivity may have caused undue deference to the Army chain of command and undue concern about the potential impact of an interview on Hasan's military career, which appears to have driven the decision not to interview Hasan or contact his superiors.

**F. An Inverted Chain of Command (Chapter 6)**

The JTTF synergy also weakens when the FBI looks to military TFOs – or those of any other agency – to resolve disputes between JTTFs. Here, after SD-Agent reviewed WFO's response to the lead, he was reluctant to push back. He knew WFO-SSA. They were peers. Yet SD-Agent asked SD-TFO3 to contact WFO-TFO, DCIS Agent to DCIS Agent, even though the two had never met.

SD-Agent took this approach to avoid being, in his words, "the heavy" in dealing with a DCIS Agent in another JTTF. He was also concerned about professional courtesy and deference to another Field Office; indeed, he had pushed back at the response of another Field Office only once before in his career. SD-Agent's request also could have been based in part on SD-TFO3's reaction to WFO's response, which caused SD-TFO3 to wonder whether Hasan was a WFO asset.

SD-Agent's request also underscores the perception of the Hasan assessment as a military matter. That perception led both JTTFs to push the dispute down the FBI chain of command, to be resolved by DCIS TFOs, rather than up the chain of command to FBI supervisors or Headquarters. That action led, in turn, to a lack of resolution – and a lack of further investigation.

We understand SD-Agent's interest in extending professional courtesy and investigative deference to another Field Office. We appreciate the discomfort in challenging a TFO assigned to another Field Office about the sufficiency of his level of investigation. But too much is at stake for these concerns to guide (or deter) resolution of interoffice investigative disputes.

SD-Agent should have called WFO-SSA. If they could not resolve matters, SD-Agent should have raised the dispute up the FBI chain of command to his supervisor, who could have reviewed the matter and contacted WFO-SSA's supervisor. If disagreement continued, the supervisors could have turned to FBI Headquarters for resolution. This is how the FBI routinely handles interoffice disputes and disagreements, but only as a matter of unofficial policy.

**G. The Lack of Formal Policies (Chapter 6)**

The lack of formal policy guidance defining ownership of this lead and requiring elevation of interoffice disputes caused or contributed to a situation in which two JTTFs effectively disowned responsibility for the lead – each believing that the other office was responsible. That belief affected, in turn, each JTTF's sense of priority when it came to the assessment, the search for additional Hasan-Aulaqi communications, and how the conflict between the offices should be resolved.

The nature of Routine Discretionary Action Leads only added to the dissonance. At that time, written FBI policy on Discretionary Action Leads placed responsibility on the issuing office to set the lead while apparently placing responsibility on the receiving office to determine the adequacy of any action taken on the lead: “the recipient will decide what, if any, action to take....” MAOP § 10.2.9(1)(b).

The FBI should have provided formal policy guidance on the ownership of leads and interoffice dispute resolution.

## Chapter 10

### The Assessment

WFO-SSA and WFO-TFO erred in the process they followed to conclude that Hasan's communications with Aulaqi were benign and acceptable. They also erred in failing to search DWS-EDMS after the passage of five months, if only to determine whether Aulaqi had replied to Hasan's messages. Their assessment of Hasan was belated, incomplete, and rushed, primarily because of their workload; the lack of formal policy setting deadlines for the assignment and completion of Routine counterterrorism leads and establishing a baseline for information to be collected in counterterrorism assessments; WFO-TFO's lack of knowledge about and training on DWS-EDMS; the limited DoD personnel records available to WFO-TFO and other DoD TFOs; and the delay in assigning and working on the lead, which placed artificial time constraints on the assessment.

#### A. The Records Check (Chapter 6)

WFO-SSA and WFO-TFO assessed Hasan using the limited U.S. Army Electronic Personnel File that WFO-TFO had authority to access. Those records praised Hasan's research on Islam and the impact of beliefs and culture on military service, and also showed that he had been promoted to Major weeks earlier. WFO-TFO thus believed – and WFO-SSA agreed – that the Army encouraged Hasan's research and would approve of his communications with Aulaqi.

Based on this simple records check, those conclusions may have been reasonable. The two messages in San Diego's lead solicit Islamic opinions. Hasan made no attempt to disguise his identity and used an email address that revealed his proper name. If these two messages and the Electronic Personnel File were the universe of available information, they might provide a reasonable basis to believe that inquiries to a radical Islamic cleric were relevant to Hasan's research.

The U.S. Army records available to WFO-TFO did not present a complete or accurate picture of Hasan. Indeed, their contents were misleading. WFO-TFO did not have access to files maintained locally by Army command. As a result, he was unaware of the Army's issues with Hasan. We believe that DoD should examine whether DoD participants in the JTTF program should have full access to all DoD personnel records.

Despite the Army's interest in Hasan's research, his communications with an inspirational and potentially operational ██████████ [known radicalizer] under FBI investigation deserved scrutiny beyond a simple records check. As the final sentences of San Diego's lead state: "██████████ ██████████ Although the content of these messages was not overtly nefarious, this type of contact with Aulaqi would be of concern if the writer is actually the [active duty military officer] identified above." Regardless of his Electronic Personnel File, the lead warranted a closer look at Hasan, even if an interview were ruled out.

## **B. The Decision Not To Interview Hasan (Chapter 6)**

The decision not to interview Hasan was flawed. WFO-TFO and WFO-SSA offered two explanations for it. First, both men believed that an interview could jeopardize the Aulaqi [investigation] ██████████ by revealing the FBI's access to Hasan's messages. This explanation is not persuasive. Pretext interviews are common FBI tradecraft. FBI Agents talk to subjects and assess threat levels every day without explaining the source of their knowledge. Pretexts for interviewing Hasan come easily to mind; for example, an Agent could have approached Hasan to ask for insights into Islamic radicalization, for information about the tolerance of Muslim soldiers in the U.S. military, or to discuss a possible guest lecture by Hasan based on his research.

Second, WFO-TFO and WFO-SSA concluded, from the records check, that Hasan was not "involved in terrorist activities." As a result, they believed that an interview and contact with Hasan's chain of command might jeopardize his military career, which in this instance they determined would be contrary to the DIOG's "least intrusive means" requirement. That requirement is straightforward: an investigative technique (for example, a records check or interview) may be used if it is the least intrusive feasible means of securing the desired information in a manner that provides confidence in the information's accuracy. DIOG § 4.4(B). Thus, when certain information can be obtained from public sources, Agents and TFOs generally should not obtain that information through more intrusive means, such as physical surveillance.

Here, San Diego's lead advised that, "[w]hile e-mail contact with Aulaqi does not necessarily indicate participation in terrorist-related matters ... this type of contact with Aulaqi would be of concern if the writer is actually the individual identified above." In response to the lead, WFO conducted an assessment to determine whether Hasan was "involved in terrorist activities." The first and only method WFO used to secure that knowledge was a records check. The available files suggested that Hasan's messages involved research, not terrorism; but the fact that messages to a radical imam appear to be benign academic inquiries does not answer the question of whether Hasan was a threat. The "least intrusive means" requirement did not prohibit further inquiry into that question, but would require a careful balancing of the competing interests of assessing a potential threat and minimizing potential harm to the subject of the assessment.

Moreover, when San Diego expressed doubts about WFO's assessment, the calculus of the least intrusive means requirement should have changed. The *next*-least intrusive means (for example, an interview) could have been used to resolve any doubts about the messages and provide more confidence in the accuracy of the information supporting WFO's conclusion. This is how the least intrusive means requirement is supposed to operate: selecting, step-by-step, the least intrusive technique(s) that will accomplish the operational objective at hand.

SD-TFO3's recollection of his final telephone call with WFO-TFO, if correct, indicates that another factor played a role in WFO's decision not to interview Hasan. According to SD-TFO3, he called WFO-TFO on or about June 15, 2009, and told him that, upon receiving a lead like this one, San Diego would have conducted, at the least, an interview of the subject. SD-TFO3 recalls that WFO-TFO replied, in effect (paraphrased, not a quotation): "This is not SD, it's DC and WFO doesn't go out and interview every Muslim guy who visits extremist websites."