

## Exhibit D



# Department of Justice

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**STATEMENT OF**

**MARK F. GIULIANO  
EXECUTIVE ASSISTANT DIRECTOR  
NATIONAL SECURITY BRANCH  
FEDERAL BUREAU OF INVESTIGATION**

**BEFORE THE**

**SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES  
COMMITTEE ON APPROPRIATIONS  
UNITED STATES HOUSE OF REPRESENTATIVES**

**CONCERNING**

**THE REPORT OF THE WILLIAM WEBSTER COMMISSION ON THE FBI,  
COUNTERTERRORISM INTELLIGENCE AND THE EVENTS AT FORT HOOD, TEXAS  
ON NOVEMBER 5, 2009**

**PRESENTED**

**AUGUST 1, 2012**

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**AUGUST 1, 2012**

Good morning Chairman Wolf, Ranking Member Fattah, and members of the subcommittee.

Judge William H. Webster has delivered to the FBI the *Final Report of the William H. Webster Commission on The Federal Bureau of Investigation, Counterterrorism Intelligence, and the Events of Ft. Hood on November 5, 2009*.

The FBI requested a full investigation of the manner in which the FBI and its Joint Terrorism Task Forces handled and acted on counterterrorism intelligence before and after the Fort Hood shootings, as well as a review and assessment of the FBI's governing authorities and the FBI's remedial measures after the Fort Hood shootings. The investigation did not probe the shootings, which are the subject of a U.S. Army-led inquiry and military criminal proceeding against Major Nidal Hasan. The FBI and Department of Justice provided the Commission with more than 100 formal and informal interviews, meetings, and briefings, and more than 10,000 pages of documents. The Commission also consulted with outside experts on counterterrorism and intelligence operations, information technology, and violent extremism; public interest groups; and staff from Congressional committees with responsibility for oversight of the FBI.

The Commission found shortcomings in FBI policy guidance, technology, information review protocols, and training, and made 18 important recommendations for corrective and enhancing measures in those areas. The FBI concurs with the principles underlying all the recommendations and has already taken action to implement them, based on a combination of the Commission's work, the FBI's own internal review of the Fort Hood shootings, and the report of the U.S. Senate Committee on Homeland Security and Governmental Affairs.

The Commission also found that, working in the context of the FBI's pre-Fort Hood authorities, policies, operational capabilities, and technology, personnel who handled counterintelligence information made mistakes. The Final Report concludes, however: "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 Special Agent, Intelligence Analyst, and Task Force Officer who handled the [intelligence] information acted with good intent.”

Judge Webster appointed five seasoned investigators and legal specialists from the private sector to serve as Commissioners. “Their contributions of time and energy were substantial and an act of selfless patriotism,” Judge Webster said. The Final Report contains the names and biographies of Commission members.

Below you will find the FBI’s response to each of the Webster Commission’s 18 recommendations.

I look forward to answering any questions you might have.

**FBI Response to  
The Final Report of the Judge William H. Webster Commission on  
The Federal Bureau of Investigation, Counterterrorism Intelligence, and  
The Events at Fort Hood, Texas, on November 5, 2009**

The Webster Commission makes 18 recommendations for corrective and enhancing measures regarding FBI policy and operations, information technology, and training. The FBI concurs with the principles underlying all the recommendations and has already taken action to implement them, based on the Commission's work, the FBI's own internal review of the Fort Hood shootings, and the report of the U.S. Senate Committee on Homeland Security and Governmental Affairs.

**Policies:** The Webster Commission recommended that the FBI promulgate formal written policies related to the command-and-control of counterterrorism operations between FBI Headquarters and its field offices, the responsibility for investigative leads set from one field office to another, the resolution of inter-office disputes, and assignment and completion of leads. Most of these recommendations focus on the formalization of existing and longstanding FBI practices and procedures. The FBI recognizes the value of written policy and agrees with the recommendations. The FBI also expects its Agents, Analysts and other personnel to use sound judgment in conducting thorough investigations, and to take responsibility for bringing issues to resolution. The organizational structure of the FBI also achieves in large part the objectives of the recommended written policies.

Webster Commission Recommendation on Counterterrorism Command-and Control Hierarchy

- The FBI has undergone many changes since September 11 to prevent terrorist attacks, and key among those changes was centralizing command-and-control of counterterrorism operations in the Counterterrorism Division (CTD) at FBI Headquarters. The CTD Assistant Director provides direction for all counterterrorism matters, including counterterrorism operations.
- The FBI has issued guidance to all offices on national management and oversight of counterterrorism matters that identifies CTD entities with responsibility for specific counterterrorism mission areas.

Webster Commission Recommendation on Ownership of Counterterrorism Leads

- As noted by the Commission, FBI practice has long been that offices assigned counterterrorism leads have ultimate responsibility for their timely and diligent completion.
- The FBI has issued formal written policy that requires offices to complete all leads within specific timeframes. The office assigned the lead is responsible for its resolution.
- In addition, more than two years ago, the FBI simplified lead categories. The FBI eliminated "Discretionary Leads," such that leads may only be "information only" or action leads.

#### Webster Commission Recommendation on Interoffice Disagreements in the Counterterrorism Context

- The FBI has issued guidance on the resolution of inter-office disagreements.
- Offices must work to resolve disagreements through the chain-of-command. As necessary, the Assistant Director in charge of the Counterterrorism Division is the official responsible for final decisions.

#### Webster Commission Recommendation on Completion of Routine Counterterrorism Leads

- The FBI has issued formal written policy that requires offices to complete all leads within specific timeframes.

#### Webster Commission Recommendation on Leads for Joint Terrorism Task Force (JTTF) Task Force Officers

- The FBI agrees that there may be situations in which the assignment of a JTTF Task Force Officer as lead investigator may not be in the best interest of the investigation.
- The FBI also recognizes and values the unique contributions of its Task Force Officers, including their specialized knowledge and familiarity with their home agency's systems and procedures, and will assess the proper assignment for each investigation based on the circumstances of each case.

#### Webster Commission Recommendations on Counterterrorism Assessments of Law Enforcement and Other Government Personnel

- As the Commission notes, the FBI implemented, within weeks of the Fort Hood attacks, an information-sharing agreement with the Department of Defense regarding counterterrorism investigations of military personnel. The Webster Commission described this information-sharing agreement as important, noting that it "assures that, as a matter of written policy, the FBI will provide timely and consistent notice of counterterrorism assessments and investigations" of Defense Department personnel.
- Consistent with the Commission's recommendation, the FBI is pursuing similar arrangements regarding other Federal, State, and local government employees.

**Integrating Intelligence and Operations:** The Webster Commission reported that it was impressed with the quality and commitment of the FBI's Intelligence Analysts and the integration of Analysts into the FBI's work.

#### Webster Commission Recommendation on Continued Integration of Intelligence Analysts into Operations

- As the Report recognized, the FBI has already taken significant steps to strengthen its integration of intelligence and operations.

- The Counterterrorism Division has created a strategic analytical and operational branch that includes multiple threat-based fusion cells, responsible for ensuring counterterrorism operations and collection are focused on priority threats. The Deputy Assistant Director who leads this branch is an Intelligence Analyst.
- The FBI continues to examine innovative ways to integrate intelligence and operations throughout the organization.

**Information Technology:** The Commission recommended that the FBI employ various enterprise data management and data integration applications designed to aid the FBI in reviewing, analyzing, managing, and acting on information and implement protocols for reviewing such information. In many cases, the FBI has already addressed the Commission’s recommendations, including by implementing data management and integration projects and policies designed to help Agents, Analysts, Task Force Officers, and other personnel more effectively review, evaluate, and exploit information. Due in part to the rapidly evolving nature of information technology, and the FBI’s numerous initiatives to upgrade its technology, much of the technology and tools in place at the time of the attack, and reviewed by the Webster Commission, have been replaced with more advanced technology over the span of a year or more. The Webster Commission acknowledges that many of these crucial technologies would require additional funding.

#### Webster Commission Recommendation on Expediting Enterprise Data Management

- The FBI – like the rest of the U.S. Intelligence Community – has focused Enterprise Data Management projects on eliminating “stove-piped” database architecture in order to move toward our goal of collecting and storing data as a service.

#### Webster Commission Recommendation on Expanding and Enhancing the Data Integration and Visualization System

- Data Integration and Visualization System (DIVS) is one important step in the FBI’s broader Enterprise Data Aggregation Plan. DIVS evolves as technology improves and as new data is received. Today’s DIVS is beginning to use technology that existed only in concept at the time of the Fort Hood shootings.
- DIVS enables FBI personnel today to use a single log-on and user interface to conduct complex searches across the FBI’s most critical data holdings, triage and visualize the results, and integrate the data into analytical tools – all capabilities that did not exist at the time of the Fort Hood shootings. Since the Commission’s initial review of DIVS, the number of FBI and non-FBI data sets accessible to DIVS has grown considerably.
- The FBI is working to implement a majority of DIVS’ planned analytical capabilities by this Fall. As the technology industry continues to develop electronic means to extract and understand concepts from data, the FBI must focus on and invest in these technologies.

### Webster Commission Recommendation on DWS-EDMS

- In 2009, the FBI initiated a multi-phased modernization effort to enhance the Data Warehouse System/Electronic-Surveillance Data Management System (DWS-EDMS). The FBI has adopted a new and more effective search engine for DWS-EDMS.
- The FBI has already invested in hardware necessary for a technical refresh and to enable a disaster recovery capability for DWS-EDMS. As stated in the report, further investment would be necessary to implement an automated live recovery capability.

### Webster Commission Recommendation on Acquisition of Advanced Information Search, Filtering, Retrieval, and Management Technologies

- The FBI has begun implementing an enterprise knowledge-management application that will provide advanced search and analytic tools to review and manage a wide variety of data. Among other things, these tools will help FBI personnel organize intelligence and discover non-obvious connections.
- The FBI is also deploying the next generation of tools to process content within DWS-EDMS; these tools will enable advanced search and other capabilities.
- As the technology industry continues to develop electronic means to extract and understand concepts from data, the FBI must focus on and invest in these technologies.

### Webster Commission Recommendation on Review Protocols for Large Strategic Collections of Data

- The FBI is in the process of finalizing protocols to manage the review of large strategic collections of data.

**Governing Authorities:** The Webster Commission conducted a broad review of the FBI's governing authorities and procedures as they relate to counterterrorism operations. The Commission reports these authorities and procedures strike an appropriate balance between detecting and disrupting threats and respecting civil rights and civil liberties. The Commission also made recommendations regarding the need for the FBI Office of Integrity and Compliance and Inspection Division to conduct internal compliance reviews and audits to ensure compliance with all policies and procedures that protect civil liberties and individual privacy. The FBI supports these recommendations and has taken action to implement them.

### Webster Commission Recommendation on Compliance Reviews and Audits

- The FBI regularly conducts reviews to ensure FBI compliance with its policies and procedures and will conduct the reviews and audits identified by the Commission.



### Webster Commission Recommendation on Adherence to Information Security Policies

- The FBI regularly conducts reviews to ensure FBI compliance with its policies and procedures and will conduct the reviews identified by the Commission.

### Webster Commission Recommendation for FBI Authorities to Remain in Effect

- The FBI agrees that FBI's authorities for National Security Letters, FISA Section 215 Business Records, Roving Wiretaps, and FISA "Lone Wolf" orders are essential tools for protecting national security and should remain in effect.

### Webster Commission Recommendation on Updating Attorney General Guidelines Affecting Extra-Territorial Operations

- Since 2011, the FBI and Department of Justice have been engaged in a joint-effort to update the Attorney General Guidelines.

**Training:** Following the shootings, the FBI immediately instituted additional training for all Task Force Officers related to FBI databases and Joint Terrorism Task Force operations. The Webster Commission concluded that the "FBI's post-Fort Hood enhancements of counterterrorism and JTTF training represent significant improvements."

### Webster Commission Recommendation on Training Task Force Officers

- The FBI has substantially expanded its Task Force Officer training, to include the following: a mandatory nine-day orientation course, mandatory FBI database training, and mandatory introductory training prior to a Task Force Officer receiving his or her first duty assignment.
- All mandatory courses must be completed within the first 90 days of assignment to the Joint Terrorism Task Force.

**Administrative and Disciplinary Action:** At the request of the FBI, the Commission considered whether any administrative or disciplinary action should be taken against any FBI personnel. The Commission determined that it would not recommend any such action against FBI personnel.

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