

111TH CONGRESS REPORT
2d Session " HOUSE OF REPRESENTATIVES " 111-402

RESOLUTION OF INQUIRY REQUESTING THE PRESIDENT TO TRANSMIT TO THE HOUSE OF REPRESENTATIVES ALL DOCUMENTS IN THE POSSESSION OF THE PRESIDENT RELATING TO THE INVENTORY AND REVIEW OF INTELLIGENCE RELATED TO THE SHOOTING AT FORT HOOD, TEXAS, DESCRIBED BY THE PRESIDENT IN A MEMORANDUM DATED NOVEMBER 10, 2009

JANUARY 27, 2010.—Referred to the House Calendar and ordered to be printed

Mr. REYES, from the Permanent Select Committee on Intelligence,
submitted the following

ADVERSE REPORT

together with

MINORITY VIEWS

[To accompany H. Res. 978]

The Permanent Select Committee on Intelligence, to whom was referred the resolution (H. Res. 978) requesting the President to transmit to the House of Representatives all documents in the possession of the President relating to the inventory and review of intelligence related to the shooting at Fort Hood, Texas, described by the President in a memorandum dated November 10, 2009, having considered the same, report unfavorably thereon without amendment and recommend that the resolution not be agreed to.

PURPOSE

H. Res. 978 requests that the President submit to the House of Representatives all documents in the possession of the President relating to the inventory and review of intelligence related to the shooting at Fort Hood, Texas, described by the President in a memorandum dated November 10, 2009.

BACKGROUND

On November 10, 2009, President Barack Obama ordered an inventory of all information held by the U.S. Government regarding U.S. Army Major Nidal Malik Hasan, who has been charged with 13 specifications of premeditated murder and 32 counts of at-

tempted premeditated murder under the Uniform Code of Military Justice.

President Obama also directed a review of how that information was handled, shared, and acted upon within and across departments and agencies. The President's national security advisors delivered a report summarizing the inventory and review to the President on November 30, 2009.

SCOPE OF COMMITTEE REVIEW

No hearings were held in the Committee on H. Res. 978.

OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee are incorporated in the descriptive portion of this report.

GENERAL PERFORMANCE GOALS AND OBJECTIVES

Clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply, as H. Res. 978 does not authorize funding.

CONSTITUTIONAL AUTHORITY STATEMENT

Clause 3(d)(1) of rule XIII of the House of Representatives does not apply, as H. Res. 978 is not a bill or a joint resolution that may be enacted into law.

COMMITTEE CONSIDERATION AND ROLL CALL VOTES

On January 20, 2010, the Committee met in open session to consider H. Res. 978.

The Committee voted to report the resolution adversely by a record vote of 8 ayes and 5 noes.

Voting aye: Mr. Reyes, Mr. Hastings, Ms. Eshoo, Mr. Holt, Mr. Thompson, Ms. Schakowsky, Mr. Langevin, Mr. Boren.

Voting no: Mr. Gallegly, Mr. Thornberry, Mrs. Myrick, Mr. Miller, Mr. Conaway.

SECTION-BY-SECTION ANALYSIS

This resolution requests that the President submit to the House of Representatives all documents in the possession of the President relating to the inventory and review of intelligence related to the shooting at Fort Hood, Texas, described by the President in a memorandum dated November 10, 2009.

STATEMENT OF FEDERAL MANDATES STATEMENT

H. Res. 978 includes no Federal mandates.

STATEMENT ON CONGRESSIONAL EARMARKS

Clause 9 of rule XXI of the Rules of the House of Representatives does not apply, as H. Res. 978 is not a bill or a joint resolution.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee estimates that imple-

menting the resolution would not result in any significant costs. The Congressional Budget Office did not provide a cost estimate for the resolution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H. Res. 978 makes no changes to existing law.

MINORITY VIEWS

We are dismayed that the Committee has once again refused to conduct urgent and bipartisan oversight of what appear to be significant issues in the Intelligence Community. We have pressed since the Fort Hood incident for more information, and even though a second attack raising almost identical issues has occurred in the interim we have still received virtually no meaningful information. Since the Administration to date has shared only a two-page unclassified report that virtually ignores what appear to be the key intelligence issues, we believe that this resolution continues to be needed to facilitate meaningful oversight to help protect against future attacks.

Since November 2009, the United States has suffered two significant jihadist-connected terrorist attacks—the November 5, 2009 shootings at Fort Hood, Texas, and the failed Christmas, 2009 bombing of a Northwest Airlines flight bound for Detroit, Michigan. Two days after the Fort Hood incident, Republican members of the Committee wrote to the Directors of key intelligence agencies to express concern that preliminary information had suggested the possibility that serious issues existed with respect to the performance of the intelligence community, and asked for all relevant documents and materials to be preserved to facilitate “significant and serious oversight activity by the Committee.”

The urgency of conducting vigorous oversight to attempt to immediately fix deficiencies in our nation’s intelligence collection and analysis in order to try to prevent future attacks should have been obvious and noncontroversial. This is not a partisan objective, but an imperative command of our duty to protect the American people. The Committee should have worked immediately and collectively on a bipartisan basis with senior Administration officials and the leadership of the Intelligence Community to identify and fix the shortcomings highlighted by the Fort Hood incident. These included what apparently were serious failures to apprehend and follow up on the significance of intelligence that had been collected, serious failures in sharing information, serious failures in analyzing disparate intelligence, and serious failures to comprehend the threat caused by radicalized Americans.

Instead of such a bipartisan effort, the Administration announced on November 10 that it had chosen to conduct a unilateral and wholly internal review of the matter. Accordingly, Republican members of the Committee wrote to the Speaker of the House on November 17 to request vigorous bipartisan oversight of the matter in light of “significant intelligence and intelligence sharing failures that must be reviewed and addressed immediately to ensure that the American people receive the fullest protection against potential attacks”. We received no response to our outreach, and were dis-

appointed that our efforts to conduct meaningful, substantive oversight on this matter were ignored on a partisan basis.

At the November 30, 2009 deadline for the completion of the Administration's review of intelligence related to the Fort Hood shootings, we again made requests on November 30 and December 3 for briefings so we could immediately get to work on intelligence community performance issues "that must be addressed immediately to safeguard the American people." In his December 3 letter, Ranking Member Hoekstra pointed out "Given what we already know about the attack, we need to prevent its reoccurrence. We cannot waste more time. We must immediately begin a healthy dialogue between the Executive and Legislative Branches in order to investigate the intelligence-related matters surrounding the attack." Again, this proposition should not have been either partisan or controversial. Again, our request was met by silence. The Committee was not and still has not been briefed on the results of the intelligence review, and it appears that even the President may not have been fully briefed on the review until weeks later.¹

On December 16, 2009, Ranking Member Hoekstra introduced H. Res. 978 in an effort to obtain documents and materials related to the Fort Hood intelligence review so that the Committee could conduct independent oversight of the performance issues in the Intelligence Community that had been brought to light in the Fort Hood attack.

Nine days later, on Christmas Day, the United States suffered a second attack by al-Qaeda connected terrorist Abdul Farouk Abdulmutallab, who attempted to destroy Northwest Flight 253 and the 289 people on board with an explosive device. It immediately became apparent that the failures that had come to light at Fort Hood had almost catastrophically happened again—failure to understand the importance of critical intelligence, failure to follow up on that intelligence, failure to share that intelligence, and failure to comprehend the threats posed by radicalization. The Christmas attack also further highlighted the failure of the Intelligence Community to effectively follow up on the threat posed by radical jihadist cleric Anwar al-Alwaki.

While it is impossible to say definitively whether more urgent and effective followup on the intelligence flaws identified in connection with the Fort Hood matter would have prevented the Christmas attack, it is clear that the Committee and the Administration should have acted more urgently as we sought in the wake of Fort Hood and still must act immediately to conduct vigorous and independent review of these issues so that these problems can be fixed fully and immediately.

The limited information that has been made available to us on the Executive Branch reviews that have been conducted on these matters gives us little confidence that the flaws have been fully addressed. On January 15, 2010, six weeks after its conclusion, the Administration finally provided the Committee with some informa-

¹ A New York Times Magazine article after the attempted Christmas Day attack stated: "Notwithstanding Janet Napolitano's statement last month that 'the system worked,' Obama suspected that it had not. While on vacation he was given an 80-page review of the Fort Hood shooting, looking at how information about Hasan was not well circulated within the federal government." Inside Obama's War on Terrorism, New York Times Magazine, January 17, 2010.

tion on the outcome of the Fort Hood intelligence review—a two page, unclassified, document sent via email that failed entirely to address the most significant concerns that have arisen in the wake of the two most recent attacks. Given the seriousness of the issues at stake for national security, this document is shocking in its utter lack of substance and failure to grasp the nature or urgency of the issues at stake. It is clearly insufficient. Moreover, the White House review of matters relating to the Christmas bombing attempt could not be fully independent or objective inasmuch as it was led by the same person who originally was responsible for some of the potentially flawed practices at the National Counterterrorism Center.

The Majority once again has turned down a clear and necessary opportunity to fill a critical void. The Chairman's objection that this resolution might require the production of *too many* documents from the Intelligence Community (which have already been preserved and presumably examined in the Executive Branch review) only highlights what we believe is the fundamental lack of independent oversight being conducted by this Committee. It is unfortunate that the Majority apparently is willing to cede its oversight responsibility to the Executive Branch and apparently views this issue as a matter of artisan political discourse rather than as an urgent legislative responsibility.² This is not an issue of partisan politics. It is an issue of national security, and we will continue to press for aggressive and substantive oversight to address these critical issues.

PETE HOEKSTRA.
ELTON GALLEGLY.
MAC THORNBERRY.
MIKE ROGERS.
SUE MYRICK.
ROY BLUNT.
JEFF MILLER.
K. MICHAEL CONAWAY.
PETER T. KING.

fi

²“Democrats Seek Cover on Security,” Roll Call, January 14, 2010 at 3, (“House Democratic leaders are looking to President Barack Obama to show that the party in power is staying on offense when it comes to national security. . . .”).