DEPARTMENT OF DEFENSE
OFFICE OF THE INSPECTOR GENERAL

REPORT OF INVESTIGATION

CASE NUMBER
H05L97905217

DATE
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ALLEGED MISCONDUCT BY SENIOR DOD OFFICIALS
CONCERNING THE ABLE DANGER PROGRAM AND
LIEUTENANT COLONEL ANTHONY A. SHAFFER, U.S. ARMY RESERVE

Prepared by the Office of the
Deputy Inspector General for Investigations

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INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202–4704

SEP 18 2006

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (INTELLIGENCE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS COMMAND
DIRECTOR, DEFENSE INTELLIGENCE AGENCY

SUBJECT: Investigation into Alleged Misconduct by Senior DoD Officials Concerning the Able Danger Program and Lieutenant Colonel Anthony A. Shaffer, U.S. Army Reserve (Case Number H05L97905217)

This report provides the results of our investigation into allegations that DoD officials mismanaged an antiterrorist program known as "Able Danger," and that in doing so they reprised against a key proponent of Able Danger, Lieutenant Colonel (LTC) Anthony A. Shaffer, a member of the U.S. Army Reserve who holds a civilian position in the Defense Intelligence Agency (DIA).

The investigation addressed nine specific allegations raised in the media and by various Members of Congress. We did not substantiate those allegations. The evidence did not support assertions that Able Danger identified the September 11, 2001, terrorists nearly a year before the attack, that Able Danger team members were prohibited from sharing information with law enforcement authorities, or that DoD officials reprised against LTC Shaffer for his disclosures regarding Able Danger.

We found some procedural oversights concerning the DIA handling of LTC Shaffer's office contents and his Officer Evaluation Reports. We recommend that the Director, DIA, review these areas and advise us of action taken within 90 days. By separate correspondence we will advise LTC Shaffer of his options for correcting his military record and offer our assistance if he chooses to do so.

We appreciate the courtesies extended to our investigative staff. Should you have any questions, please contact me or Mr. John R. Crane, Assistant Inspector General, Communications and Congressional Liaison, at (703) 604-8324.

Thomas F. Gimble
Acting

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FORWARD

The course of this investigation, in particular the central issues, was framed through a series of requests from Members of Congress, the Defense Intelligence Agency (DIA), and Lieutenant Colonel (LTC) Anthony A. Shaffer, U.S. Army Reserve.

In letters to the Secretary of Defense dated October 7, 2005, and to this Office dated October 18, 2005, Representative Curt Weldon requested an explanation for the suspension of LTC Shaffer's security clearance and "a detailed report on the destruction of LTC Shaffer's documents and other files." In a floor speech on October 21, 2005, Representative Weldon alleged that DIA included Government property and classified documents in a shipment of personal effects to LTC Shaffer.

In a letter to the Secretary of Defense dated October 20, 2005, Chairman Duncan Hunter, House Armed Services Committee, requested that we "conduct an independent review of the facts and circumstances surrounding DIA's actions to revoke LTC Shaffer's security clearance."

In a letter to this Office dated October 21, 2005, Chairman Charles E. Grassley, Senate Finance Committee, asked that we review LTC Shaffer's representations concerning Able Danger's "alleged early warnings" of the September 11, 2001 (9/11), terrorist attack and whether LTC Shaffer was "subjected to any action which constituted reprisal for disclosures related to Able Danger."

In a letter to this Office dated December 20, 2005, Senators John McCain and Joseph Lieberman requested that we investigate allegations that Able Danger identified 9/11 terrorists before the attack, DoD failed to share that information with cognizant Government agencies, and DoD closed down Able Danger prematurely, improperly destroying Able Danger records.

In a joint letter to this Office dated February 8, 2006, Representatives Peter Hoekstra and Frank R. Wolf asked that we "investigate what intelligence the Able Danger program generated regarding al Qaeda, Mohammed Atta, and other 9/11 highjackers," and whether, if generated, that intelligence was shared with the FBI. Additionally, Representatives Hoekstra and Wolf asked us to investigate alleged destruction of Able Danger intelligence and the nature of Able Danger information shared with the 9/11 Commission.

By letter dated November 1, 2005, the General Counsel, DIA, asked us to conduct an independent assessment of matters involving LTC Shaffer.

Because the background and fact patterns for allegations involving Able Danger and LTC Shaffer are similar, we address them in a single report to avoid duplicative effort and to provide a single repository for the results of our investigative work.

Although many aspects of the Able Danger program remain classified, this report is unclassified to promote maximum utility and avoid delays that would attend a classified issuance. We believe the issues are fully addressed without the inclusion of classified information.

TABLE OF CONTENTS

Section		Page
I.	INTRODUCTION AND SUMMARY	1
II.	BACKGROUND ON ABLE DANGER	6
III.	SCOPE OF THE INVESTIGATION	16
IV.	FINDINGS AND ANALYSIS	16
	A. Did the Able Danger team identify Mohammed Atta and other 9/11 terrorists before September 11, 2001?	16
	B. Did DoD officials prohibit Able Danger members from sharing relevant terrorist information with the FBI, the CIA, or other agencies which could have acted on that information?	37
	C. Did DoD officials improperly direct the destruction of Able Danger mission related data?	44
	D. Did DoD officials terminate the Able Danger project prematurely?	48
	E. Did DoD officials execute the Able Danger mission in compliance with applicable intelligence oversight guidance?	49
	F. Did DIA officials, when cleaning out LTC Shaffer's civilian office, improperly destroy Able Danger documents that LTC Shaffer had accumulated?	51
	G. Did DIA officials improperly ship Government property and classified documents to LTC Shaffer's attorney?	55
	H. Did DIA officials take action to suspend LTC Shaffer's access to classified information and revoke his security clearance in reprisal for his communications to Members of Congress or the 9/11 Commission staff regarding Able Danger?	62
	I. Did DIA officials issue LTC Shaffer unfavorable Officer Evaluation Reports (OERs) in reprisal for communicating with the 9/11 Commission staff regarding Able Danger?	77
V.	CONCLUSIONS	89
VI.	RECOMMENDATIONS	90

LIST OF ACRONYMS

Acronym	Refers to:
AR	Army Regulation
Army G2	U.S. Army Office of Intelligence
CIA	Central Intelligence Agency
CAPT	Captain (Navy)
CDR	Commander (Navy)
CINC	Commander in Chief
Col	Colonel (Air Force)
COL	Colonel (Army)
CPT	Captain (Army)
DAC	Directorate of Administration, Counterintelligence and Security Activity
DCID 6/4	Director of Central Intelligence Directive 6/4
DCIPS	Defense Civilian Intelligence Personnel System
DIA	Defense Intelligence Agency
DMSM	Defense Meritorious Service Medal
DoD	Department of Defense
E.O. 12333	Executive Order 12333
FBI	Federal Bureau of Investigation
GEN	General (Army)
GOMOR	General Officer Memorandum of Reprimand
GPS	Global Positioning Satellite
HUMINT	Human Intelligence
INSCOM	U.S. Army Intelligence and Security Command
IG	Inspector General
IO	Information Operations
JCAG	Joint Counterintelligence Assessment Group
JWAC	Joint Warfare Analysis Center
LIWA	Land Information Warfare Activity
LTC	Lieutenant Colonel (Army)
Lt Col	Lieutenant Colonel (Air Force)
LTG	Lieutenant General (Army)
Maj	Major (Air Force)
MG	Major General (Army)
NSA	National Security Agency
OCWG	Operational Concepts Working Group
OER	Officer Evaluation Report
OPSEC	Operations Security
OUSD(I)	Office of the Under Secretary of Defense for Intelligence
RADM	Rear Admiral (Upper Half) (Navy)
RDML	Rear Admiral (Lower Half) (Navy)

LIST OF ACRONYMS -- continued

Acronym	Refers to:
SAB	Security Appeals Board
SCI	Sensitive Compartmented Information
SOCC	Special Operations Collaborative Center
SOIO	Special Operations Information Operations
TDY	Temporary Duty
TOR	Terms of Reference
TWC	Transnational Warfare Center
UBL	Usama (Osama) Bin Laden
UC	Unit Chief (FBI)
USSOCOM	United States Special Operations Command

ALLEGED MISCONDUCT BY SENIOR DOD OFFICIALS
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I. INTRODUCTION AND SUMMARY

We initiated the investigation to address allegations that senior DoD officials mismanaged a DoD antiterrorist program known as "Able Danger," and that in doing so they sought to end the military and civilian careers of a key proponent of Able Danger, Lieutenant Colonel (LTC) Anthony A. Shaffer, a member of the U.S. Army Reserve who also held a civilian position as a senior intelligence officer in the Defense Intelligence Agency (DIA).[1]

Allegations concerning Able Danger became public in August 2005 when media sources reported allegations, made by LTC Shaffer, that the identities of terrorists involved in the attack of September 11, 2001 (9/11), were discovered by Able Danger before the attack, but DoD officials prohibited Able Danger personnel from sharing that information with law enforcement authorities. Subsequently, Members of Congress contacted this Office requesting investigations into unfavorable actions allegedly being taken by DIA officials against LTC Shaffer for making those allegations, as well as into the allegations themselves. In response to those communications, we formulated the following issues/allegations that warranted investigation and will be addressed in this report:

Allegations involving the Able Danger program:

- Did the Able Danger team identify Mohammed Atta and other 9/11 terrorists before the 9/11 attack?
- Did DoD officials prohibit Able Danger members from sharing relevant terrorist information with the Federal Bureau of Investigation (FBI), the Central Intelligence Agency (CIA), or other agencies which could have acted on that information?
- Did DoD officials improperly direct the destruction of Able Danger mission related data?
- Did DoD officials terminate the Able Danger program prematurely?
- Did DoD officials execute the Able Danger mission in compliance with applicable intelligence oversight guidance?

[1] LTC Shaffer served in DIA as both a civilian employee and, when called to active duty, a military officer. Because the allegations cover time periods and events that relate to both his military and civilian duties, we will refer to LTC Shaffer using his military rank in this report.

- Did DIA officials, when cleaning out LTC Shaffer's civilian office, improperly destroy Able Danger documents that LTC Shaffer had accumulated?[2]

- Did DIA officials improperly ship Government property and classified documents to LTC Shaffer's attorney when disposing of what they believed to be LTC Shaffer's personal property?

Allegations of reprisal against LTC Shaffer:

- Did DIA officials take action to suspend LTC Shaffer's access to classified information and revoke his security clearance in reprisal for his communications to Members of Congress or the National Commission on Terrorist Attacks Upon the United States (9/11 Commission) regarding Able Danger -- or in reprisal for his earlier communications to the DIA Inspector General (IG)?[3]

- Did DIA officials issue LTC Shaffer unfavorable (military) Officer Evaluation Reports (OERs) in reprisal for his communications with the 9/11 Commission staff regarding Able Danger?

Conclusions concerning Able Danger issues

We found that in October 1999, General (GEN) Henry H. Shelton, U.S. Army, then-Chairman of the Joint Chiefs of Staff, directed the U.S. Special Operations Command (USSOCOM) to develop a "campaign plan"; that is, an operational concept that when implemented would obtain detailed information on international terrorist organizations, identifying terrorist leaders, command and control infrastructures, and supporting institutions. The unclassified name for the initiative to develop such a campaign plan was "Able Danger."

An "Operational Concepts Working Group" consisting of six to eight members was established at USSOCOM to produce the campaign plan, which called for the use of state-of-the-art information technology tools to gather information on international terrorists from Government data bases and open sources (to include the World Wide Web) with the initial focus on al Qaeda. The campaign plan was presented to GEN Shelton in January 2001. Upon presenting the campaign plan to GEN Shelton, USSOCOM's tasking was satisfied, the Able Danger mission was terminated, and the Able Danger team disbanded. Data mining and visualization tools similar to those employed by Able Danger to formulate the campaign plan were subsequently incorporated into intelligence gathering efforts at USSOCOM.

[2] As discussed in this report, LTC Shaffer was placed on administrative leave from DIA and vacated his office in April 2004. His office was then cleared for occupancy by another employee.

[3] The 9/11 Commission was created by congressional legislation signed by President George W. Bush in November 2002. The Commission's mission was to prepare a full account of circumstances surrounding the September 11, 2001, terrorist attacks and report its findings to the President and Congress.

We concluded that prior to September 11, 2001, Able Danger team members did not identify Mohammed Atta or any other 9/11 hijacker. While we interviewed four witnesses who claimed to have seen a chart depicting Mohammed Atta and possibly other terrorists or "cells" involved in 9/11, we determined that their recollections were not accurate. Testimony by witnesses who claimed to have seen such a chart varied significantly from each other, and in some instances testimony obtained in reinterviews was inconsistent with testimony that witnesses provided earlier. In particular, we found inaccurate LTC Shaffer's assertions regarding the existence of pre-9/11 information on the terrorists and his suggestion that DoD officials thwarted efforts to share Able Danger information with law enforcement authorities. In drawing this conclusion, we found particularly persuasive the sworn testimony of witnesses who disavowed statements and claims that LTC Shaffer attributed to them.

The preponderance of witness testimony indicated that recollections concerning the identification of 9/11 terrorists were linked to a single chart depicting al Qaeda cells responsible for pre-9/11 terrorist attacks, which was obtained but not produced by the Able Danger team. That chart (Figure 1 of this report) was produced by Orion Scientific Corporation (Orion) in May 1999 and contained the names and/or photographs of 53 terrorists who had been identified and in many cases, incarcerated, before 9/11, including a Brooklyn cell, but it did not identify Mohammed Atta or any of the other 9/11 terrorists. Our review of Able Danger team records found no evidence that Able Danger team members had identified Mohammed Atta or any of the other terrorists who participated in the 9/11 attack.

With respect to allegations concerning prohibited contacts between Able Danger and law enforcement authorities, we found no evidence to corroborate LTC Shaffer's claims that Able Danger members were prohibited by DoD officials from attending meetings he allegedly arranged with the FBI. All witnesses who were in a position to know denied LTC Shaffer's claim that efforts to meet with FBI antiterrorism units were made, much less thwarted by DoD officials. One Able Danger team member alleged that he was prohibited from providing the chart at Figure 1 to the FBI by a senior USSOCOM official sometime in early 2000. However, the senior official did not recall the incident and we are persuaded that the chart would have been of minimal intelligence value to the FBI. Accordingly, any decision to prohibit transfer of the chart would not have been inappropriate under the circumstances.

We found that large quantities of data that had been collected at two locations as part of the Able Danger data mining mission were destroyed. One intelligence analyst told us that he destroyed approximately "2.5 terabytes" of Able Danger data that had been collected at the Land Information Warfare Activity (LIWA), Fort Belvoir, VA, where Able Danger activities were initially located. Additionally, an Able Danger analyst testified that a large quantity of "extraneous" data was destroyed when the Able Danger team departed its second location -- a contractor facility in Garland, Texas -- and returned to USSOCOM. We found no basis to conclude that either of those destructions was improper, but rather followed established procedure and violated no regulation.

As indicated above, we concluded that the Able Danger project was appropriately terminated after it had met its objective of producing an antiterrorism campaign plan. Further, we determined that it complied with applicable intelligence oversight guidance.

With respect to allegations concerning the improper disposal of materials located in LTC Shaffer's DIA office, we found no evidence to corroborate LTC Shaffer's assertion that he came to possess a significant volume of Able Danger documents in his DIA office, rendering the allegation of their improper destruction moot. Witnesses whom LTC Shaffer identified as being aware of Able Danger documentation he purportedly stored in his DIA office did not corroborate his assertions in that regard. In particular, Able Danger team members, whom LTC Shaffer asserted had left Able Danger documentation with him for safekeeping on their travel to Washington, D.C., denied doing so. DIA employees responsible for cleaning out LTC Shaffer's office acknowledged destroying some Government documents, but none recalled seeing any documents associated with Able Danger. Accordingly, we concluded the alleged improper destruction did not occur.

We concluded that DIA officials did not improperly ship classified documents or Government property of significant value to LTC Shaffer.[4] We confirmed that DIA shipped seven boxes of personal items to LTC Shaffer's attorney. A member of congressional committee staff provided us four classified documents (six pages) that LTC Shaffer indicated were included in that shipment.[5] However, the evidence was insufficient to conclude that any classified items were in the boxes at the time that DIA officials shipped them. Additionally, LTC Shaffer provided us a Government-owned Global Positioning Satellite (GPS) unit that he said was included in the boxes that were sent to his attorney. We confirmed, by serial number, that this GPS unit had been provided to LTC Shaffer in Afghanistan by a DIA contractor employee, but we found that LTC Shaffer never returned the GPS unit to DIA. As a result, that GPS unit could not have been included by DIA employees in the boxes that were shipped to LTC Shaffer's attorney.

Conclusions concerning reprisal

We concluded that DIA officials did not reprise against LTC Shaffer, in either his civilian or military capacity, for making disclosures regarding Able Danger or, in a separate matter, for his earlier disclosures to the DIA IG regarding alleged misconduct by DIA officials. In that regard, we identified the following communications which warranted consideration during our analysis of alleged reprisal:[6]

- Communications that LTC Shaffer asserted he made to the DIA IG, as part of two investigations during the March to December 2002 period. Although our investigation found that LTC Shaffer was not the source of some of the

[4] We acknowledge that some Government office supplies may have been included in the shipment (e.g., commercially available pens, pencils, blank CD ROM disks), but considered that inclusion an oversight not warranting further investigation.

[5] LTC Shaffer provided the four documents to congressional staff.

[6] In conducting reprisal analysis, we recognize that whistleblower complaints made by civilian employees in the intelligence community are excluded from the jurisdiction of the Office of Special Counsel under Section 2302 (a)(2)(c) of Title 5, United States Code. However, it is our policy to apply Title 5 standards for all investigations into complaints of reprisal submitted by civilian appropriated fund employees.

communications, nevertheless, for purposes of this investigation, we assumed that DIA officials believed that he was the source. (The communications and investigation were not related to Able Danger.)

- Communications during a meeting with staff members of the 9/11 Commission in October 2003, while serving in Afghanistan. LTC Shaffer testified that he told the 9/11 Commission staff members that Able Danger discovered the identity of 9/11 terrorists before the attack but was prevented from sharing that information with law enforcement authorities. However, four witness also present at the meeting unanimously disputed LTC Shaffer's recollection -- testifying, under oath, that LTC Shaffer made no such claims for Able Danger at that meeting.

- Disclosures regarding Able Danger to Members of Congress beginning in February 2005 and to the media beginning in August 2005.

The overriding unfavorable action taken by DIA officials following those disclosures was the final revocation of LTC Shaffer's access to classified information in September 2005 and the revocation of his security clearance in February 2006. That revocation essentially ended LTC Shaffer's career as an intelligence officer, both at DIA and in the Army Reserve.[7]

We concluded that DIA officials would have taken action to revoke LTC Shaffer's access and clearance regardless of his disclosures to the DIA IG, the 9/11 Commission staff members, Members of Congress, or the media. We found that the action was based on misconduct by LTC Shaffer that was substantiated during an official DIA IG investigation taken together with other security-related issues that were not previously sufficient to trigger adverse security action at DIA. Of note, the final decision to revoke LTC Shaffer's access was recommended by a panel of three senior intelligence officers, one of whom was not a DoD employee. Sworn testimony from those panel members compellingly demonstrated that their recommendation regarding LTC Shaffer followed established security guidelines, was justified by circumstances, and would have occurred absent his disclosures. Moreover, our comparison of LTC Shaffer's case to those of other DIA employees who had their access or clearances revoked found no basis to conclude that DIA's actions with respect to LTC Shaffer were outside the norm or otherwise gave evidence of disparate treatment.

Finally, we concluded that an OER issued to LTC Shaffer in September 2004 would have contained the same [redacted] ratings had he not made protected communications to the DIA IG and the 9/11 Commission staff members and, therefore, was not an act of reprisal. However, we found minor procedural anomalies in the processing of LTC Shaffer's OER that warrant review by the Director, DIA.

[7] Based on the revocation of his access and anticipated revocation of his clearance, LTC Shaffer was proposed for removal from his DIA civilian position in November 2005. That action was held in abeyance pending completion of this investigation. LTC Shaffer continued on paid administrative leave.

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II. BACKGROUND

In October 1999 GEN Shelton tasked USSOCOM to develop a campaign plan to deter al Qaeda. As part of the tasking, USSOCOM was directed to employ advanced analytical information technology tools. Further, USSOCOM's campaign plan was to be integrated into an overarching interagency plan. The unclassified name for the tasking was "Able Danger." The Able Danger program was classified "Top Secret" and only personnel with a "need to know" were "read-on" to the program.

GEN Shelton testified that he had no specific recollection of term "Able Danger" or the Able Danger program, but did recall that while he was Chairman of the Joint Chiefs of Staff he was concerned about al Qaeda and the need to develop a holistic view of al Qaeda. GEN Shelton stated,

> the genesis of starting to try to collect on a worldwide basis against terrorists, came about as a result of me looking at all the information that was coming into the Chairman's office, and seeing that we would get -- we were just being inundated with information, and it wasn't really intelligence, but little snippets.

USSOCOM's initial goal was to identify al Qaeda's worldwide operations. GEN Peter J. Schoomaker, current Army Chief of Staff, and formerly Commander, USSOCOM, characterized Able Danger as "an effort to put together a campaign plan to address the al Qaeda terrorist network."

The Operational Concepts Working Group (OCWG) -- a term used to identify USSOCOM personnel assigned to produce the campaign plan -- represented the core personnel working on Able Danger and ranged from six to eight members. Throughout the duration of Able Danger, various USSOCOM officers and civilian employees augmented the OCWG as necessary. For ease of reference in this report, we refer to the OCWG and its augmentees collectively as the "Able Danger team."

Colonel (Col) [redacted], U.S. Air Force, served as the Director of the Able Danger team from June 2000 to January 2001. Col [redacted] reported to Major General (MG) Geoffrey C. Lambert, U.S. Army, former Director, Center for Operations, Plans and Policy, USSOCOM. MG Lambert, in turn, reported directly to GEN Schoomaker on issues related to Able Danger. Captain (CAPT) (then-Commander) [redacted] U.S. Navy, who was assigned to the Center for Intelligence and Information Operations at USSOCOM, served as the Operations Officer for the Able Danger team from its inception until the end of October 2000. At the time, Rear Admiral (RDML) Thomas W. Steffens, U.S. Navy, was the Director, Center for Intelligence and Information Operations. By the nature of his position, RDML Steffens was involved with the Able Danger mission.

The Able Danger team focused on "identifying and exploiting vulnerabilities associated with al Qaeda's command and control infrastructure, its leadership and supporting organizations." In order to accomplish these goals, the team employed advanced analytic tools

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and methodologies that were available in the 1999-2000 time frame. It sought to identify linkages and patterns in large volumes of data (data mining) and display the mined data in a user-friendly fashion for intelligence analysts and operations planners (data visualization). The data that the members mined came from Government data bases supplied by various intelligence agencies and organizations as well as open source material. Open source material included information retrieved from the World Wide Web. Additionally, the team attempted to initiate a collaborative environment (chat room) for members of the intelligence community, within and outside DoD, to share information.

The Able Danger team initially arranged to utilize the Joint Warfare Analysis Center (JWAC), Dahlgren, VA, for support. JWAC, at that time, offered the Able Danger team an analytical tool called the Situational Influence Assessment Module (SIAM). SIAM allowed users to "construct graphic depictions of complex, cause-and-effect relationships involving uncertainty." GEN Schoomaker stated, "One of the reasons we went to JWAC is I remember telling people that JWAC-type tools would probably be useful to us because we had used them operationally in the past."

On November 22, 1999, an "Initial Planning Conference Announcement" was communicated to the various Able Danger participants. This conference was held January 10-14, 2000, at JWAC. Attendees to the conference represented a wide cross section of the intelligence community and included members of the DIA, CIA, National Reconnaissance Office, National Security Agency, National Geospatial-Intelligence Agency, and other intelligence organizations. The participants used SIAM to attempt to map out the al Qaeda network. Regarding their results, CAPT [redacted] testified, "with high-priced help . . . we still couldn't do it . . . it was feckless." Accordingly, other options for support to the Able Danger mission were considered.

CAPT [redacted] testified that during the January conference at JWAC, LTC Shaffer approached him and recommended that CAPT [redacted] contact Dr. [redacted] a civilian intelligence analyst then-working for LIWA. LIWA was a subordinate organization of the U.S. Army Intelligence and Security Command (INSCOM). Accordingly, immediately after that conference, CAPT [redacted] visited Dr. [redacted] at LIWA and she provided an overview of LIWA's capabilities, showing him various products. CAPT [redacted] recalled that, within 3 or 4 days of his LIWA visit, Dr. [redacted] provided three charts to LTC Shaffer, who, in turn, delivered them to CAPT [redacted] at USSOCOM headquarters in Tampa, Florida.

As discussed at Section IV. A. of this report, the three charts that were provided to CAPT [redacted] included two charts that were produced by Orion and one chart that was produced by LIWA. The Orion charts are depicted at Figures 1 and 2.[8] An example of the type of chart that was produced by LIWA and provided to CAPT [redacted] is depicted at Figure 3.[9] All three charts are examples of link analysis.

[8] Photographs of Figures 1 and 2 were retrieved from a laptop computer that contained Able Danger material in a safe at USSOCOM Headquarters. We did not locate the original charts.

[9] We did not locate the actual chart that had been provided to CAPT [redacted]

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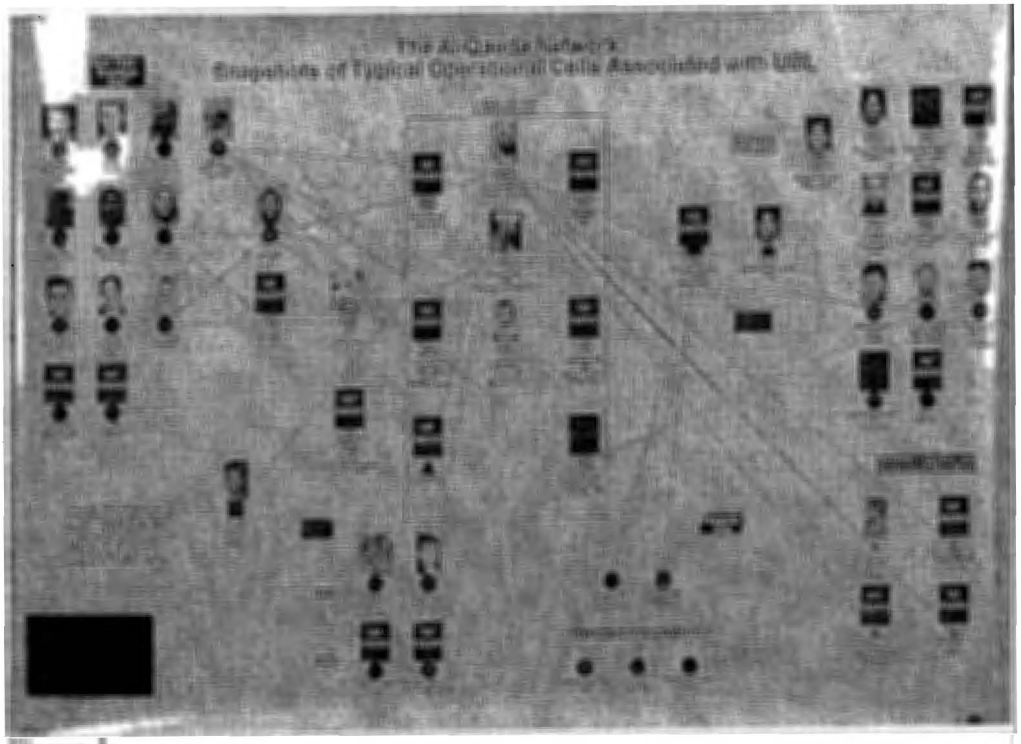

Figure 1.

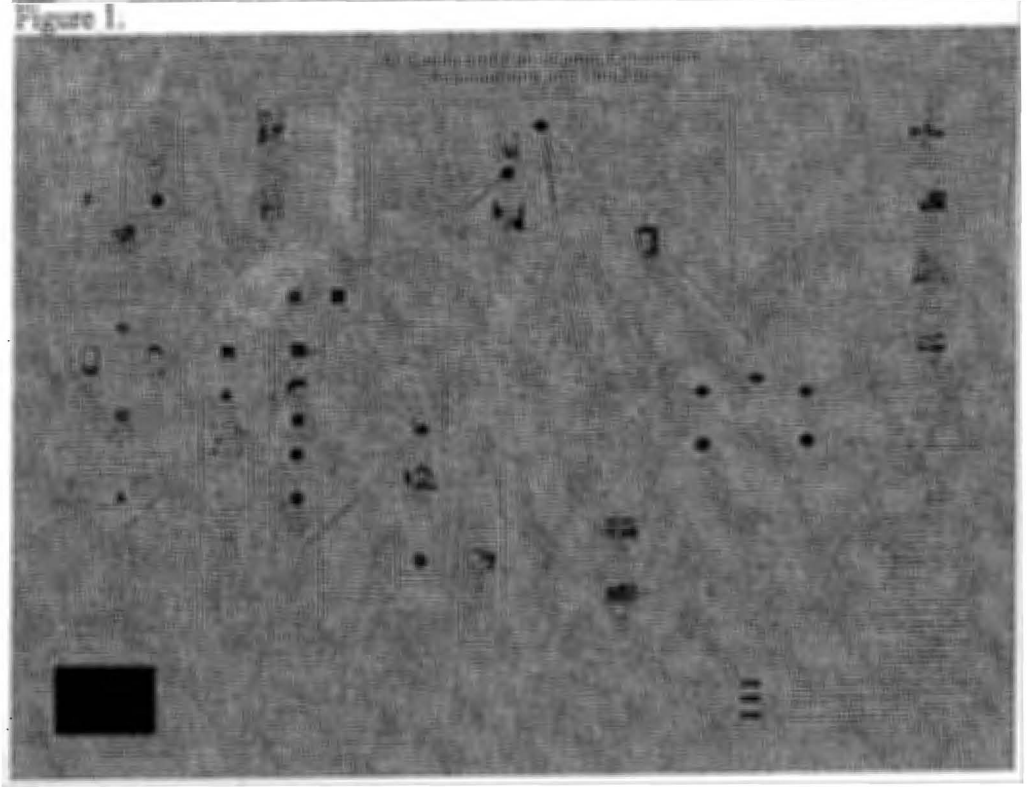

Figure 2.

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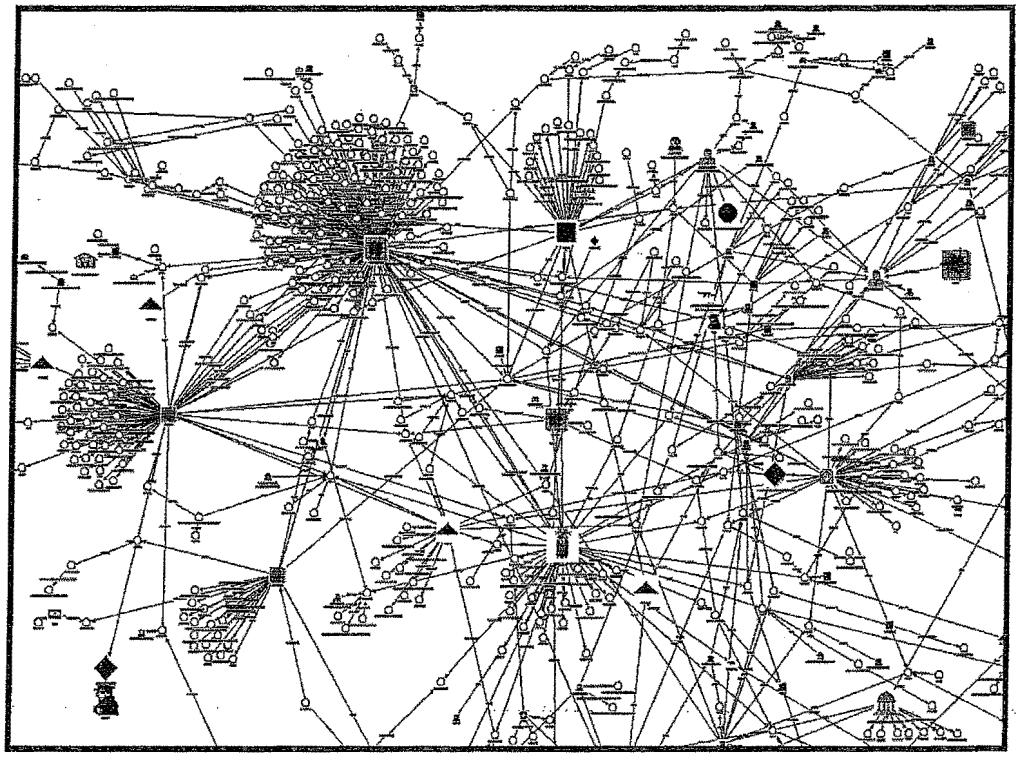

Figure 3.

Subsequent Able Danger conferences were held at JWAC during the periods January 24-27 and February 9-17, 2000. Dr. [redacted] and Mr. [redacted] formerly an active duty major in the U.S. Army assigned to LIWA as Chief, Intelligence Branch, attended the conference that was held January 24-27, 2000. During this conference CAPT [redacted] traveled to LIWA and met with senior officials there to pursue a cooperative association between Able Danger and LIWA.

At the February 2000 JWAC conference, Mr. [redacted] attended but Dr. [redacted] was prohibited by the LIWA commander from attending. Mr. [redacted] stated Dr. [redacted] did not attend "because they [INSCOM and LIWA leadership] were not happy with her ability to get along well with others." In a timeline prepared by CAPT [redacted] for this Office, an entry for February 14, 2000, provided, "Dr [redacted] removed from program." Dr. [redacted] testified she was, thereafter, "very limited" in the support she could do for the Able Danger team and that she was "being minimized." Although we agree that Dr. [redacted] role in the Able Danger program itself was limited, we believe she played a significant role in the Able Danger controversy because she subsequently claimed to have seen Mohammed Atta depicted on charts she provided to CAPT [redacted] in January 2000. Dr. [redacted] also claimed that on September 25, 2001, she had a brief glimpse of a chart prepared before the 9/11 attack, which depicted terrorist activities and which she believed contained a picture of Mohammed Atta.

CAPT [redacted] testified that although he was disappointed with the products that had been produced at JWAC, he was very impressed by what he had seen during his two visits to LIWA as well as by the three charts that had been provided to him by Dr. [redacted] via

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LTC Shaffer. CAPT [redacted] thereby decided that support for the Able Danger mission should be moved from JWAC to LIWA. However, he indicated that his chain of command essentially ignored his suggestion to move Able Danger mission support to LIWA. Nonetheless, since CAPT [redacted] was convinced that LIWA could offer the best assistance, he worked through the command's reluctance to move operations to LIWA. He testified, "I was pretty adamant that we needed to shift. . . . So I started to hook up systems that would allow us in Tampa to have access to the data [at] LIWA."[10]

Though CAPT [redacted] was convinced that Able Danger should be associated with LIWA, and appeared to have been receiving some support from LIWA, it was not until mid-March 2000 that USSOCOM established a working relationship with LIWA. CAPT [redacted] testified that on March 3, 2000, GEN Schoomaker was briefed by the Able Danger team on their progress to date. CAPT [redacted] testified, "He [GEN Schoomaker] walked over and I sat there and I walked him through a lot of classified discoveries using these tools on the system linked in to [LIWA]." CAPT [redacted] stated that within 2 weeks of the March 3, 2000, briefing, LIWA was officially associated with the Able Danger mission. Regarding the March 3, 2000, briefing, GEN Schoomaker stated, "I know that JWAC was probably less useful than what I saw at LIWA. So it was a LIWA kind of thing that people wanted."

LIWA offered a facility with cutting-edge technology that enabled the Able Danger team to process large amounts of both Government and open source data. When the Able Danger team became associated with LIWA, Dr. James E. Heath was the Senior Intelligence and Technical Advisor for INSCOM. Dr. Heath testified that the LIWA suite of technologies included "Oracle data bases, parsers, geographic visualization, [and] relationship [constructors], [which were] essential to us from an intelligence standpoint." He characterized the use of this technology as,

> You have a lot of cool ways to visualize [data] and interact with it, and so now you have this haystack of information . . . these tools have the capability to interact with it, allow you to find needles within that haystack effectively and quickly.

In anticipation of providing extensive support to Able Danger, Mr. [redacted] collected approximately 2.5 terabytes of open source data that could serve as a data repository for analytical studies by Able Danger members. However, despite the advanced capability there, LIWA's direct support to Able Danger ultimately consisted primarily of a mid-March 2000 training session for some of the Able Danger intelligence analysts. Dr. [redacted] Mr. [redacted] and two intelligence analysts under Mr. [redacted]'s supervision provided the training support.[11]

[10] Dr. [redacted] testified that the Able Danger team did not have access to LIWA's data. Rather, she had provided CAPT [redacted] file transfer protocol (FTP) access that enabled CAPT [redacted] to download products that were uploaded by LIWA personnel for him.

[11] Mr. [redacted] told us that after he was read on to Able Danger, he began accumulating large quantities of data primarily from open sources. He said that he subjected that data to LIWA analytical tools and found numerous potential al Qaeda links in the United States. However, he acknowledged that he had not vetted this preliminary work and that he did not identify any of the 9/11 terrorists or other potential targets of interest.

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Shortly after the March 2000 training session, Lieutenant General (LTG) Robert W. Noonan, Jr., U.S. Army, then-Commanding General, INSCOM, ordered LIWA to limit support for Able Danger to training and familiarizing team members on the LIWA tools. LTG Noonan imposed this limitation because of issues related to collecting data on United States persons that arose during a previous project at LIWA that generated significant interest at the highest levels in DoD. LIWA's decision to limit support to training, without allowing analysis of data, effectively halted meaningful progress by the Able Danger team for about 3 months (March through June 2000).

CAPT [redacted] testified that LIWA had not produced anything of significance for Able Danger prior to terminating its support. Other than the three charts he received from Dr. [redacted], he assessed the value of the intelligence that had been gained while Able Danger was associated with LIWA as "zero."

Dr. [redacted] corroborated CAPT [redacted] testimony in that regard, stating that products other than the three charts were of minimal importance to Able Danger. Dr. Heath agreed, describing the LIWA support as "the SOCOM guys come down, just like we had lots of other people come down and sit with the analysts for a week or two, get a sense for what you could do." He added that further support for Able Danger was prohibited by the INSCOM commander until specific authorization from the Office of the Secretary of Defense was received.

CAPT [redacted] testified that eventually Dr. [redacted] recommended that he move the Able Danger operation to Raytheon Company's Garland, Texas, facility, since LIWA could not support it. Dr. [redacted] formerly Chief Scientist, Intelligence Division, Raytheon Company, told us that Raytheon, which set up the LIWA facility in 1997, constructed a backup center at the Garland facility with capabilities that he believed were "actually better but they were at least the same" as those of LIWA. Thereafter, USSOCOM entered into a $750,000 contract with Raytheon Company to provide support to Able Danger for the period July 17 to October 17, 2000.

Dr. [redacted] stated that the Garland facility was organized so that Able Danger worked in a secure area separate from Raytheon Company employees, who did not get involved in Able Danger activities. He stated, "Only Special Forces or Government people could go in that room and so they may have had stuff in there, but, you know we weren't allowed to see." Dr. [redacted] characterized Raytheon Company's support as,

> Well we provided them the JWICS [Joint Worldwide Intelligence Communications System] lines and analyst workstations and interfaces to national collection systems and secure telephones and faxes and so on. And also provided them know-how on the processes on putting together the whole software and setting up the process for collection and analysis.

When the Able Danger team arrived at the Garland facility the members were disappointed that the capabilities they were led to believe would be in place were not. CAPT [redacted] testified that though there was a computing system at the facility, "it didn't have

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the tools on it. The tools didn't migrate well." CAPT [redacted] estimated that the Garland facility was not operational for "60, 65 [days]" after his arrival on July 1, 2000. Accordingly, the facility was not fully operational until about September 1, 2000. One witness testified that when the Garland facility was finally operational the capabilities exceeded those that had been shown to the team members at LIWA.

CAPT [redacted] added "When the 3-month time limit expired, Gen Schoomaker gave me yet another month to work it, because I think he was pretty happy." CAPT [redacted] testified that USSOCOM paid $250,000 for this additional month at the Garland facility. This extension enabled the Able Danger team to continue work at the Garland facility until mid-November 2000.

When the Garland facility became operational, Able Danger team members applied the data mining and visualization tools to data from Government data bases and the World Wide Web. Dr. [redacted] stated, "They got 6 years of classified data from 18 agencies in one location." With regard to open source data, Dr. [redacted] testified, "they started from scratch." Dr. [redacted] estimated the Able Danger team members were collecting data from 10,000 Web sites each day. He said, "What we were doing is collecting data from news Web sites and terrorist's Web sites and things like that." However, we found that the Able Danger team members generally limited their searches to English language Web sites.[12]

Dr. [redacted] testified that sometime in September 2000, she took leave and traveled to the Garland facility in order to interview for a position there with the Raytheon Company. She was hired effective September 28, 2000, and began working at the Garland facility shortly thereafter. As a Raytheon Company employee, Dr. [redacted]'s association with the Able Danger mission was limited. She stated, "I was a contractor. I wasn't a Government person at that time, so there was a lot that happened that I wasn't privy to."

On October 10, 2000, GEN Schoomaker traveled to the Garland facility and was briefed on the progress of the Able Danger program. CAPT [redacted] characterized the briefing as

> What we tried to impart on him at that meeting was, "Hey, we've got the pieces in place. We've got the data sets here. We're starting to process it. We're starting to come up with vignettes that we think are warranted and we need to look at. People are looking at doing it this way. We think it's fast, we think it's robust and it's credible."[13]

Witnesses who were present at the briefing testified that GEN Schoomaker was very impressed with the technology he observed at the Garland facility. CAPT [redacted] testified, "Gen Schoomaker said, you know, 'you guys are too far away. This four-month prototype effort

[12] CAPT [redacted] told us that he performed a number of searches of Portuguese language Web sites.

[13] Coincidentally, this briefing occurred 2 days before the attack on the USS COLE (DDG-67) in Aden, Yemen. CAPT [redacted] told us that Yemen was mentioned as a "hotspot" during the briefing, but characterized any assertion that GEN Schoomaker failed to act on a warning of an imminent threat there as "all crap."

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in Garland has been fun but I want you guys closer.' " MG Lambert testified that "everyone agreed with that decision [to move the analytical capabilities to USSOCOM headquarters]."

GEN Schoomaker testified he had anticipated USSOCOM having a local capacity of advanced analytical tools and data mining. He stated, "From the very beginning, these things looked [like] they had promise." GEN Schoomaker added, "It was always intended to be brought back into our spaces [at USSOCOM headquarters] so that our analysts would be able to do this every day." GEN Schoomaker provided, "It didn't make any sense for us to have it all the way in Texas. It was there because of the contractor facility."

On October 12, 2000, Col [redacted] sent a memorandum to the Able Danger team members in which he discussed a meeting he had that day with MG Lambert and Brigadier General (BG) James W. Parker, U.S. Army, Director, Special Operations Information Operations (SOIO), USSOCOM. Based on that meeting, Col [redacted] outlined "the current picture of the future." In his memorandum, Col [redacted] advised that the Able Danger team "will dissolve with the 15 Dec [December 15, 2000] publication of the IO [Information Operations] Campaign Plan." He added that as a follow on mission to the Able Danger team, SOIO would take "the lead in developing the SOCC [Special Operations Collaborative Center]." He added, "As you could tell, the CINC [GEN Schoomaker] was and is very happy with your accomplishments." Col [redacted] also wrote, "**your only concern is the IO Campaign Plan.**" (emphasis in original).

In an attachment to Col [redacted]'s memorandum of October 12, 2000, the vision, charter, and command relations of the SOCC were discussed. The charter provided that "the SOCC will develop and use non-traditional techniques and procedures to define areas for IO applications to obtain the initiative in combating transnational threats." It also stressed the need for "close collaboration between DOD and Other Government Agencies." In a follow-on memorandum of October 17, 2000, Col [redacted] advised Able Danger team members of GEN Schoomaker's guidance to "capture the Able Danger team capabilities and develop an IO planning cell in USSOCOM/SOIO around them."

In a letter dated October 23, 2000, Col [redacted] ordered CAPT [redacted] to return from the Garland facility to USSOCOM headquarters. CAPT [redacted] characterized this order as being "fired" and expressed his frustration that he was prohibited from continuing with data mining operations. He returned to USSOCOM headquarters on October 30, 2000, and then worked on bringing the capabilities that were at the Garland facility to USSOCOM. He continued to work this issue through May 2001.

Col [redacted] testified that the Able Danger team was "a hundred percent successful" in regard to being "a proof of concept for data mining and its capability to support operational planning." He added, however, in terms of the other aspects of the mission, identifying al Qaeda and analyzing its vulnerabilities, the team was only "30 percent" successful. He stated the weakness was that, "as far as we got was to identify . . . a proposed indication of the al Qaeda network. It was not validated." Col [redacted] testified that additional work was required in attaining "more interagency connectivity and then the bridge, once we had developed actionable intelligence, a bridge into operational planning." Col [redacted] stressed the importance of

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interagency connectivity and highlighted that "the military targets [account for] maybe five percent of actually engaging the al Qaeda network."

MG Lambert characterized the success of the Able Danger team as "it helped . . . make people realize that you can use automated tools to [discover] that very hard human networking business much more effectively and much quicker." However, MG Lambert testified "we didn't get the mission accomplished." He explained, "It ended up, the final product was just a framework, you know it was . . . just a template." He added, "But it was worth a try and there were some benefits. . . . So it was a success, it was worth the money for that, but we didn't get the mission accomplished."

Similarly, RDML Steffens was favorably impressed by the technology employed by the Able Danger team while at the Garland facility. He stated that those capabilities were "a fabulous tool." He added, "As soon as you saw it, it impressed you with the, what it could do as far as reviewing and linking information and also the visual presentations that it gave you, enabled you to see how things were connected."

CAPT [redacted] assessed that prior to his departure at the end of October 2000, the Able Danger team "had made very little progress." He commented that the team had collected a significant amount of data from open sources, but "still hadn't set the architecture to analyze it very well."

In summary, the history of Able Danger, from its inception in October 1999 to its termination in January 2001, demonstrated that its work product was limited to the development of a "Campaign Plan" that formed the basis for follow-on intelligence gathering efforts.[14] The first 9 months of Able Danger were characterized by "false starts" and repeat efforts to find a suitable operating environment and location. Its initial placement at the JWAC and subsequent association with LIWA achieved nothing other than a basic level of familiarization with state-of-the-art analytical tools and capabilities. Essentially no significant progress on Able Danger was made until September 2000 when operations at the Garland facility began. Those operations collected data from other agencies and thousands of Web sites in order to apply analytical tools that would make connections and linkages between data points to demonstrate a strategy for attacking the al Qaeda infrastructure. Operations at Garland continued for about 2 months, sufficient to develop such a strategy; i.e., a Campaign Plan, but were then terminated.

LTC Shaffer's Involvement with Able Danger

Because of the representations that LTC Shaffer made regarding Able Danger, we sought to determine the nature of his participation in, hence knowledge of, Able Danger activities. Based on our interviews with individuals familiar with the Able Danger mission, we determined that his participation was limited. A summary of his involvement follows:

- LTC Shaffer testified that in December 1999, while on travel in active duty status from DIA, he met with GEN Schoomaker at USSOCOM headquarters. According to LTC Shaffer, GEN Schoomaker asked LTC Shaffer to contact CAPT [redacted] to

[14] The campaign plan itself is classified.

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discuss the Able Danger mission. GEN Schoomaker testified he did not recall this meeting or ever meeting LTC Shaffer, but did not deny that the meeting may have occurred. MG Lambert and RDML Steffens, two senior USSOCOM officials closest to the Able Danger program, did not recall meeting LTC Shaffer during the 1999/2000 time period.

- LTC Shaffer was one of nearly 500 people who were "read-on" to the Able Danger program.

- LTC Shaffer attended the three Able Danger conferences at JWAC in January and February 2000.

- LTC Shaffer was responsible for putting CAPT [redacted] in contact with Dr. [redacted] at LIWA in order to determine whether LIWA could support the Able Danger mission. Subsequently, LTC Shaffer delivered three charts from Dr. [redacted] to CAPT [redacted] that demonstrated link analysis.

- LTC Shaffer told us that at the request of GEN Schoomaker he "negotiated" with the LIWA commander an arrangement between USSOCOM and LIWA for LIWA to support the Able Danger mission. However, we could not corroborate this assertion as the LIWA commander (now retired) refused our request for an interview and, as indicated above, GEN Schoomaker did not recall ever meeting LTC Shaffer.

- We found that LTC Shaffer traveled to Garland on one occasion, but we found no evidence that he conducted any significant work there. LTC Shaffer told us that, during his one visit to Garland, he was engaged in "looking at the data versus what we're going to do with the data and creating the options."

- LTC Shaffer assisted Able Danger team members in receiving special authorization that enhanced their ability to access various World Wide Web sites and coordinated with DIA and other intelligence agencies to provide data bases to the Able Danger team.

Witness testimony concerning LTC Shaffer's involvement and contributions was inconsistent. CAPT [redacted] and Dr. [redacted] characterized LTC Shaffer's contributions to the Able Danger mission as significant. CAPT [redacted] stated that LTC Shaffer got the Able Danger team data bases, provided an analyst who came to the Garland facility, and linked CAPT [redacted] with LIWA. Another witness, who was a key participant on the Able Danger team, characterized LTC Shaffer's involvement on Able Danger as "basically the delivery boy," referring to LTC Shaffer's assistance in providing "classified tapes from DIA." This witness added that LTC Shaffer "wasn't part of the team as he's claimed to be. He helped us out in bringing some data down and that was about it."

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III. SCOPE

In the course of our investigation, we obtained sworn testimony from 98 witnesses with knowledge of the matters under investigation, including GEN Shelton, GEN Schoomaker, LTC Shaffer, CAPT [redacted] Dr. [redacted], members of the Able Danger team, DIA officials who were involved with Able Danger or LTC Shaffer, and contractor employees involved with the program. Because of inconsistencies in testimony and need for follow-up, we conducted re-interviews of key witnesses, including LTC Shaffer who was interviewed four times and CAPT [redacted] who was interviewed three times. Additionally, we examined relevant documentation.

This report is unclassified, which caused us to omit certain factual information that might be relevant, but not essential, to resolution of the issues under consideration. In our view, the issues are fully addressed with unclassified information.

As indicated above, we evaluated reprisal allegations involving LTC Shaffer from two perspectives -- his status as a Service member and his status as a DIA civilian appropriated fund employee. While the guidelines for conducting such reprisal analysis vary because of the different statutes involved, we focused on the central question in any reprisal case -- would the unfavorable actions have been taken absent the employee's whistleblower activity? To give full consideration to LTC Shaffer's situation, we presumed that his perceived involvement in two DIA IG investigations in 2002; his discussions with the 9/11 Commission staff members in October 2003; and his communications regarding Able Danger with Members of Congress and the media in 2005 all constituted "protected communications" for purposes of reprisal analysis. We then focused our analysis on the basis for unfavorable actions taken against him to determine whether those actions were justified based on factors apart from LTC Shaffer's communications.

IV. FINDINGS AND ANALYSIS

A. Did the Able Danger team identify Mohammed Atta and other 9/11 terrorists before September 11, 2001?

Facts

Much has been reported in the media and in Congressional deliberations regarding the possibility that Able Danger identified Mohammed Atta and other terrorists associated with the attack of 9/11. That possibility was based on statements by LTC Shaffer and others who recalled seeing a chart, created before 9/11, that allegedly contained a photograph of Mohammed Atta in connection with an al Qaeda "New York" or "Brooklyn cell" or, at a minimum, displayed his name along with the names of other suspected terrorists.

We found no charts or other documentation created before 9/11 that contained a photograph or name of Mohammed Atta and was produced or possessed by the Able Danger team. Further, we found no contemporaneous documentary evidence that such a discovery had been made by Able Danger. As a result, the resolution of this issue rests on witness testimony -- particularly the credibility and consistency of testimony by witnesses who claimed to have seen

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such a depiction of Mohammed Atta. We set forth the following summaries of relevant testimony to address this matter.

CAPT [redacted]

CAPT [redacted] served as the Operations Officer for the Able Danger team from its inception in October 1999 through October 2000 and was closely involved in all Able Danger activities. We interviewed him on three occasions; December 13, 2005, February 17, 2006, and May 24, 2006. During each interview he discussed a chart that allegedly contained a photograph of Mohammed Atta. At the first interview CAPT [redacted] was "100 percent [certain] Mohammed Atta's image was on the chart." At the second interview he acknowledged there was "a compelling amount of evidence that would make it appear that I did not see Mohammed Atta." In the third interview CAPT [redacted] stated, "I'm convinced that Atta was not on that chart, the chart we had."

CAPT [redacted] testified that within "3 or 4 days" of meeting with Dr. [redacted] at LIWA in January 2000, LTC Shaffer delivered three charts to him at USSOCOM headquarters.[15] After initially denying that Figure 1 was one of those charts, CAPT [redacted] eventually testified that Figure 1 was one of the original charts and that Figure 2 was also one of the charts. He described the third chart that was delivered to him as a "propeller chart." Figure 3 is an example of such a propeller chart, but is not the chart that was delivered to CAPT [redacted]

During our initial interview, CAPT [redacted] testified that he was certain that Mohammed Atta's photograph was on one of the three charts delivered to him in January or February 2000 which portrayed a Brooklyn cell. While he believed that photographs of other 9/11 terrorists were on the chart, he was not as certain as he was about Mohammed Atta's photograph. He testified,

> I know 100 percent Mohammed Atta's image was on the chart. I pretty well recollect that there were three [terrorists], at least three others, but I have not gone into any depth in trying to recreate the memory of who any of them were. All I know is what I originally saw on the days shortly after 9/11 and that was him.

CAPT [redacted] also stated that in addition to the Brooklyn cell there were four other cells depicted on the chart. He recalled the cells were "Dar es Salaam, Kenya, Tanzania, [and] Nairobi."[16]

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[15] CAPT [redacted] first met Dr. [redacted] sometime between January 10 and 14, 2000, while at JWAC for the Initial Planning Conference. On CAPT [redacted]'s timeline is an entry for January 23, 2000, "LIWA provides suggestions . . . including demos." Accordingly, we concluded the charts were provided to CAPT [redacted] between January 15 and 23, 2000.

[16] We noted that Dar es Salaam is the capitol of Tanzania, and Nairobi is the capitol of Kenya. The U.S. Embassies in Dar es Salaam and Nairobi were both attacked on August 7, 1998.

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In our second interview we discussed with CAPT [redacted] a memorandum dated August 30, 2000, signed by CAPT [redacted], which addressed a chart entitled "The Al-Qaeda Network: Snapshots of Typical Operational Cells Associated with UBL [Usama Bin Laden]."[17] CAPT [redacted] reviewed the chart depicted at Figure 1 and agreed that this chart appeared to be the chart discussed in the memorandum. CAPT [redacted] testified,

> Well, I mean, obviously there's a compelling amount of evidence that would make it appear that I did not see Mohammed Atta. And I will absolutely grant you that based on what you're showing me my recollection could have been wrong. But I still need to stress that if I told you that I didn't think I saw Mohammed Atta's face, that in fact would be lying. . . . I honestly believe that I saw Atta on the chart.

CAPT [redacted] testified that the he did not know the current location of the original chart reproduced as Figure 1. He stated that the last time he saw it was when he left the Garland facility (October 2000). During our third interview CAPT [redacted] testified that the last time he saw the chart was in July 2000 before the Able Danger team arrived at the Garland facility, and that he never possessed any other charts with photographs depicting link analysis other than the two Orion charts that had been provided to him by LIWA.

In our third interview CAPT [redacted] stated, "I'm convinced that Atta was not on that chart, the chart that we had." However, he then recalled that, in June 2000 at USSOCOM headquarters, he "saw Atta's face" on a document that an intelligence analyst on the Able Danger team was holding. CAPT [redacted] claimed he was sitting next to the intelligence analyst who was "sifting through a bunch of paperwork" and said, "Hey, look at this guy . . . This is one mean [son of a bitch]." CAPT [redacted] testified "I turned, I looked at it and I concurred with him." CAPT [redacted] explained that the incident caused him to believe that the photograph of Mohammed Atta was on a chart because, "I thought he [the intelligence officer] was working on the chart and that's how it kind of played out in my head."

CAPT [redacted] was certain that the photograph was "something derived from the intelligence community. Some document that the intelligence community has. . . . But it was that picture of Atta." CAPT [redacted] could not recall whether the photograph was color or black and white and testified he only viewed the photograph for "four seconds, maybe five." He added, "that was the heart of what I recalled all along, not the chart but that damn picture." CAPT [redacted] did not recall any other instances where Mohammed Atta was identified by the Able Danger team.

In response to whether he had any thoughts as to the reason that others claimed to have seen a chart that depicted Mohammed Atta and a Brooklyn cell as well as possibly other 9/11 terrorists, CAPT [redacted] testified, "[LTC] Tony [Shaffer] was relying on my recollection, I think, 100 percent. I mean, I think a lot of people are."

We found that following his experience with Able Danger CAPT [redacted] actively promoted data mining as an antiterrorist tool and, in doing so, suggested with increasing

[17] The memorandum addressed the retention of data involving United States persons.

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certainty that Able Danger had identified Mohammed Atta and other 9/11 terrorists before the 9/11 attack.

Commander (CDR) [redacted] U.S. Navy, who served as CAPT [redacted]'s executive officer from March 2002 to March 2003 aboard the USS ESTOCIN, told us that CAPT [redacted] discussed his previous assignment at USSOCOM and his interest in data mining. CDR [redacted] recalled CAPT [redacted] had discussed identifying some of the 9/11 terrorists prior to the attacks in a general sense and believed CAPT [redacted] may have mentioned Mohammed Atta. CDR [redacted] stated,

> My recollection of it is he was pointing to they had knowledge of it prior or they had enough data points and enough indication to believe that . . . they had enough knowledge to identify these people as potential possible terrorists that we should be trying to capture or to apprehend.

Although CAPT [redacted] told us that the last time he saw the charts at Figures 1 and 2 was July or October 2000 (see above), CDR [redacted] testified that CAPT [redacted] showed him at least two, possibly three, charts in CAPT [redacted]'s stateroom aboard ship (about 2 years later). CDR [redacted] stated that the charts were approximately three feet by four feet and were unrolled on a table in CAPT [redacted]'s stateroom where CAPT [redacted] would use them to explain data mining. CDR [redacted] testified that there were photographs on the chart and lines connecting the photographs.

CDR [redacted] was "90 percent" certain and "real sure" that one of the charts CAPT [redacted] showed him is the chart depicted at Figure 1. He stated, "I do remember this chart. I can't say 100 percent but I believe that this is the chart . . . I believe this is the chart I saw in CAPT [redacted]'s stateroom." CDR [redacted] had a specific recollection of "the blind, Rahman" and Eyad Ismoil who are depicted in Figure 1. CDR [redacted] also recalled seeing the chart entitled, "Al-Qaeda and Pan-Islamic Extremism: Associations and Linkages" (Figure 2). CDR [redacted] was "70 percent" sure that he had seen this chart in CAPT [redacted]'s stateroom.

Mr. [redacted] Assistant for Strategic Initiative, Special Operations and Combating Terrorism, Office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, testified he met with CAPT [redacted] and LTC Shaffer during April 2003 to discuss their desire to develop an antiterrorism project applying the technology that was used by the Able Danger team. Mr. [redacted] testified that he discussed with CAPT [redacted] that they would need to prepare briefing materials that showed examples of the capabilities that were achieved with the Able Danger mission. Mr. [redacted] recalled:

> both [LTC] Tony Shaffer and [CAPT] [redacted] alluded to the fact – alluded to the fact – that prior to 9/11, there were linkages to some of the 9/11 participants that came back to the United States at a time when, for example, Mohammed Atta might have been in the United States. . . . I recall is that they alluded to the fact that three of the 9/11 hijackers had showed up in the Able Danger data base.

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What Mr. [redacted] recalled of the discussion was that it was said "in passing" and "it wasn't clear to me as to whether that information even existed any longer anyway." Mr. [redacted] was confident, however, that there was no mention of a "Brooklyn" or "Brooklyn, NY" cell.

GEN Norton A. Schwartz, U.S. Air Force, currently, Commander, U.S. Transportation Command, and then-Director of Operations for the Joint Staff, testified that in late 2003 or early 2004, CAPT [redacted] presented to him a PowerPoint briefing related to data mining. CAPT [redacted] provided us a copy of the presentation, entitled "Strategic Planning Initiative." The three objectives of the briefing were listed on a slide as: "Demonstrate a Strategic Planning approach," "Demonstrate a complete Horizontal Fusion strategy for all-source information," and "Request a Mission."

The briefing contained slides depicting various analytical tools used by the Able Danger mission team and examples of computerized visual displays, but made no mention of having identified Mohammed Atta or other terrorists prior to 9/11. GEN Schwartz confirmed that CAPT [redacted] did not mention he had identified Mohammed Atta during the brief. However, CAPT [redacted] disputed GEN Schwartz' recollection, telling us, "Atta was mentioned as a punctuation at the end of the brief. I told him how close we had gotten to catching the bad guys of 9/11."

In early 2004 CAPT [redacted] sought to meet with the 9/11 Commission and requested authorization for a meeting through his chain of command. The request was coordinated with various DoD offices and on July 12, 2004, CAPT [redacted] met with staff members of the 9/11 Commission. During his first interview with us, CAPT [redacted] testified he stated he had four points that he wanted to bring to the attention of the 9/11 Commission:

> the [Able Danger] program existed, that we knew about Mohammed Atta prior to the [USS] COLE,[18] that transitioning information to the FBI had been thwarted, and that Mohammed Atta was on, was on the chart.

During our second interview, we asked CAPT [redacted] to explain why he waited until 2004 to contact the 9/11 Commission with the foregoing information. He stated it was a "complicated answer" and discussed his frustrations with failing to convince his Navy superiors of the need to embrace data mining and visualization. Accordingly, he elected to e-mail "my boss, that I had this information and I wanted to go forward and get permission to go to the 9/11 Commission and brief them." With regard to the substance of his testimony to the 9/11 Commission staff, CAPT [redacted] stated,

> I didn't know if they had fully understood the struggle that SOCOM was going through to get details on this transnational threat prior to 9/11. I mean, there was hard work being done and I wanted to make

[18] As mentioned above, the USS COLE (DDG 67) was bombed by terrorists on October 12, 2000, shortly after mooring in the Yemeni port of Aden.

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> sure they understood the level of effort, the community of effort that was going after al Qaeda prior to 9/11. So that's why I went.

On July 12, 2004, CAPT [redacted] met with Mr. Dietrich Snell, Senior Counsel and Team Leader on the 9/11 Commission staff, who had served as an Assistant U.S. Attorney for the Southern District of New York from 1988 to 1999. As an Assistant U.S. Attorney, Mr. Snell was involved with major al Qaeda cases, including the prosecution of Ramzi Yousef for his role in a 1994-1995 plot to blow up jets over the Pacific (Yousef was convicted) and the appeal processes following the conviction of the 1993 World Trade Center bombers. He told us that, prior to his meeting, he was made aware of CAPT [redacted] s intent to discuss a specific program that had identified Mohammed Atta before 9/11.

Mr. Snell told us that during the interview CAPT [redacted] strongly promoted computer generated link analysis as tool that needed to be exploited within the Government. He recalled that CAPT [redacted] expressed "unhappiness about his superiors shutting down the . . . [Able Danger] program" and he spent "most of the interview talking about the program itself and his role in it." According to Mr. Snell, CAPT [redacted] exhibited excitement about the value of link analysis and thought that it had the support of his superiors in the chain of command, but that Able Danger was shut down after "lawyers within the DoD became too concerned" about data collection involving United States persons. Mr. Snell recalled that the primary focus of their discussion was CAPT [redacted] s disagreement with that decision.

In order to illustrate how valuable link analysis could be, Mr. Snell recalled that CAPT [redacted] "described as a recollection -- although not a very solid one -- that Mohammed Atta had been identified through this link analysis and actually had appeared either by photo or by name or both on a chart that [CAPT] [redacted] said he had seen in the early part of 2000."

However, Mr. Snell considered CAPT [redacted] s recollection with respect to Able Danger's identification of Mohammed Atta inaccurate because it was "one hundred percent inconsistent with everything we knew about Mohammed Atta and his colleagues at the time." Mr. Snell went on to describe his knowledge of Mohammed Atta's overseas travel and associations before 9/11, noting the "utter absence of any information suggesting any kind of a tie between Atta and anyone located in this country during the first half of the year 2000," when Able Danger had allegedly identified him.

Mr. Snell testified that CAPT [redacted] "qualified" his level of certainty about whether he had definitely identified Mohammed Atta, emphasizing that CAPT [redacted]

> was unable to tell me anything at all about what caused him to believe that he had actually seen Atta on a chart. In other words, what was the underlying basis for Atta's name and picture coming up and being linked? . . . he admitted that he had only seen the chart briefly and he was a little vague about whether it was the picture and the name or just one or the other. Even more significantly to me, he couldn't give me any information about why, if assuming Atta actually, he had

b(6)
b(7)(C)

> actually seen Atta, why was Atta there, what was the underlying basis? . . . So factoring everything into the mix, I concluded that CAPT [redacted] was simply mistaken about what he said he saw.

Mr. Snell addressed the fact that the 9/11 Commission Report was to be printed only 10 days after he met with CAPT [redacted] In response to whether anyone had pressured Mr. Snell to discount CAPT [redacted]'s testimony because the impending date of publication, Mr. Snell responded, "Absolutely not."

Dr. [redacted]

Dr. [redacted] played a limited role in Able Danger activities, but we interviewed her on three occasions because of her recollection that two charts she provided to CAPT [redacted] in early January 2000 identified Mohammed Atta. She recalled that one chart was produced by Orion and allegedly contained a photograph of Mohammed Atta. However, she denied that this was the chart at Figure 1. The other chart was a "parentage" or "dot" chart that was produced by LIWA. Dr. [redacted] described the parentage chart as not having any photographs but, rather containing names of entities such as people or companies designated by small circles, or "dots," on the chart (similar to the propeller chart at Figure 3). Both charts were provided to CAPT [redacted] in order to demonstrate link analysis. Dr. [redacted] testified that any link analysis chart with photographs was produced by Orion because LIWA did not have that capability to produce such charts.

Regarding the Orion charts, Mr. [redacted] recalled that in January 2000 Dr. [redacted] asked Mr. [redacted], an intelligence analyst for Orion, for a chart that she could give to the Able Danger team. He stated Dr. [redacted] told Mr. [redacted], "You can advertise your business . . . give me something very slick that we can use." Mr. [redacted] stated that Orion had prepared the al Qaeda charts which Mr. [redacted] provided to Dr. [redacted] as part of a work effort not related to Able Danger.

In our first interview Dr. [redacted] initially testified that Mohammed Atta was "highlighted" on the Orion chart and associated with wealthy individuals and religious leaders. She specifically identified the Brooklyn cell as being distinct from the area in which Mohammed Atta was located. Dr. [redacted] stated,

> And it [the chart] also associated him [Mohammed Atta] with some wealthy Middle Eastern players and some religious holy men from the region we would be interested in. I also believe that that chart had on it, to the best of my memory, several other cells, one of them being the Brooklyn cell that I had been looking at for a long time.

However, later in that interview, when asked by an investigator where Mohammed Atta was in relation to the Brooklyn cell, Dr. [redacted] responded, "I believe he would have been part of the Brooklyn cell." Dr. [redacted] was unable to recall with certainty how many other people were depicted in the Brooklyn cell and stated, "I can't say with any . . . . Four or five." She

b(6)
b(7)(C)

recalled the photograph of Mohammed Atta was "very unclear," "granular," and "grainy" while the quality of the other pictures was "pretty good."

Dr. [redacted] described the chart as depicting events in a timeline fashion and containing Mohammed Atta's picture in the upper left corner. She stated that the chart depicted terrorist attacks on the World Trade Center in 1993 and the embassy bombings in Africa as well as possibly some activity in Europe. She stated, "My memory fades on what that connection to the European group is." Dr. [redacted] explained,

> In my recollection the timeline on this chart was all associated around the events of the African bombings and the World Trade Center bombings and how the personnel from the different groups were related to the Bin Laden network.

Dr. [redacted] commented that her memory of the chart was not precise. She explained that the chart was produced by a contractor and that it had little analytical value and had been provided to Able Danger just for its visual impact as "eye candy."

During our second interview, Dr. [redacted] acknowledged she could not recall the chart provided by Orion in detail. Dr. [redacted] testified,

> I have a real hard time remembering exactly what that Orion Scientific chart looked like because to me, it doesn't have the same importance to me that it seems to have for everyone else right now. It was simply a demonstration that whatever data they had confirmed what we were seeing here [at LIWA].

Dr. [redacted] acknowledged during the second interview that the chart produced by Orion was of limited utility, commenting "So if we go back to what kind of chart was this, to me those charts were not actionable intelligence."

During our third interview, Dr. [redacted] made statements that were inconsistent with her earlier testimony regarding the Orion chart. During our first interview Dr. [redacted] testified that she recalled Mohammed Atta "name and picture," but in our third interview Dr. [redacted] testified that she no longer had a recollection of a photograph but recalled the name "Mohammed Atta" appearing on the Orion chart.

Dr. [redacted] was consistent in her testimony that she recalled the name "Atta" (did not recall "Mohammed Atta") related to a Brooklyn cell depicted on the parentage chart. She stated, "I remember the name Atta either directly under, next to, or associated with one of these dots." We found noteworthy that, while stating that the name "Atta" appeared on this chart, Dr. [redacted] acknowledged that the chart was produced using data that had been collected for previous projects related to technology transfers and support to Army units in Bosnia and Korea.

Dr. [redacted] discussed that only after speaking with CAPT [redacted] after the 9/11 attacks did she recall that Mohammed Atta was on the charts that had been produced in January 2000.

b(6)
b(7)(C)

She testified that on September 11 or 12, 2001, CAPT [redacted] called her and reminded her of the charts. She said CAPT [redacted] asked her about the chart with the photographs. She recalled him asking her, "Do you remember that first chart you had telling -- bringing to me, that had that horseshoe-shaped cluster of people around Atta?" Dr. [redacted] also testified that during this telephone conversation, CAPT [redacted] discussed a parentage or propeller chart that also included Mohammed Atta. She stated, "So he [CAPT [redacted] said go back to those briefings. Those dot charts that were unclassified I think are in those briefings." Dr. [redacted] described the conversation as, "We are remembering what happened. We're in agreement. . . . He's adamant. [quoting CAPT [redacted] 'I saw that [a photograph of Mohammed Atta]. It was on those charts. I saw this chart. Do you have this chart?' " Dr. [redacted] added that during the conversation with CAPT [redacted] she told him that she did not have the charts, but, "If they're anywhere, [Representative] Weldon or one of the congressmen has them." She also stated that CAPT [redacted] told her, "look for them. Call Tony [LTC Shaffer]. Someone has to have these charts."

CAPT [redacted] denied that he spoke with Dr. [redacted] as described above. He told us that on September 11, 2001, he was on board a Navy ship in the Mediterranean Sea and did not have access to a telephone until his ship came to port in France around September 17, 2001. CAPT [redacted] denied contacting Dr. [redacted] from France and stated that he did not speak with her until December 2001 when he returned to the United States. CAPT [redacted] also testified that though he received information about the 9/11 attacks, it was not until September 15, 2001, that he first saw any pictures of the alleged terrorists from media reports.

Mr. [redacted], employed by Orion from 1998 to 2001 as a senior intelligence analyst, told us that he prepared the charts depicted at Figure 1 and 2, which do not identify Mohammed Atta or any other 9/11 terrorist, using Orion Magic, a proprietary software program owned by Orion. He testified that the charts prepared by Orion were either link analysis or timeline charts. He stressed that the charts prepared by Orion depicted historical events and individuals with known ties to terrorist organizations. Mr. [redacted] testified that Orion Magic was not capable of discovering the identity of unknown terrorists.

Dr. [redacted] was also interviewed by members of the U.S. Army Office of Intelligence (Army G2), on August 17, 19, and 22, 2005, before we began this Investigation. In her first interview Dr. [redacted] discussed a parentage chart and recalled a Brooklyn cell. In her second interview Dr. [redacted] recalled the Brooklyn cell and the name "Atta" on the chart. She did not recall a picture of Mohammed Atta and stated, "Why would I have a picture of him?" and "I remember Atta's name, not a photograph."

Mr. [redacted] testified that sometime after Dr. [redacted] spoke with the Army G2, he spoke with Dr. [redacted] He stated, "The first time she talked to Army G2 she said she didn't remember [seeing Mohammed Atta]. And the second time she talked to them she said, 'Oh, wait, I remember.' " Mr. [redacted] added that Dr. [redacted] was upset "because nobody would believe her after her first interview that she had changed her story. She said nobody would believe her."

b(6)
b(7)(C)

Dr. [redacted] testified that on September 25, 2001, Representative Curt Weldon possessed a copy of the Orion chart, which included a picture of Mohammed Atta, that she had provided to CAPT [redacted] in January 2000. She stated she was in Representative Weldon's office and they were preparing to go to the White House to meet with I. Lewis "Scooter" Libby, then-Chief of Staff and Assistant for National Security Affairs to Vice President Richard B. Cheney. Before they left the office, Dr. [redacted] asserted, Representative Weldon retrieved the chart from a closet where he had kept other charts. In response to our question, "Do you recall [Representative Weldon] having a chart with Mohammed Atta's picture or name on it?", Dr. [redacted] responded, "And Atta's picture, I believe, to the best of my memory, I saw it in the upper left-hand corner in that chart."

Dr. [redacted] testified the chart was brought to Mr. Libby's office and there were other people in the room. She remembered the people included Representatives Christopher H. Shays and Dan Burton; Mr. Thomas J. Ridge, then-Assistant to the President for Homeland Security, Office of Homeland Security, and future-Secretary, U.S. Department of Homeland Security; and "some of Ridge's kind of deputies in this new department they were setting up." There were other people in the office that she did not recognize. Dr. [redacted] testified, "I'm going through my mind, and what I have when I walked into Scooter Libby's front reception area, and I unwrapped a lot of charts," but she could not recall whether she presented the chart depicting Mohammed Atta while in Mr. Libby's office.

Dr. [redacted] testified that she departed Mr. Libby's office with Representatives Weldon and Shays and went to the office of Mr. Stephen J. Hadley, Assistant to the President for National Security Affairs and then-Assistant to the President and Deputy National Security Advisor. Dr. [redacted] testified that she had a "60 percent" confidence level that the chart with Mohammed Atta's photograph was shown to Mr. Hadley. Regarding whether the chart contained a photograph of Mohammed Atta, Dr. [redacted] stated,

> And the reason I have a higher confidence level is I saw the picture of the World Trade Center and what I thought was the World Trade Center and what I thought were the two embassy bombings on it, which to me was the trigger that reminded me of this chart.

Dr. [redacted] added, however, that she did not see the picture of Mohammed Atta on the chart. She stated "I didn't see it that day. However, from my memory of that chart, I knew that it would have had to have been here."

Representative Weldon wrote about the September 25, 2001, meeting with Mr. Hadley in his book Countdown to Terror, which was published in June 2005. At page 18 he wrote,

> On September 25, 2001, just 2 weeks after 9/11, I met in the White House with Stephen Hadley, the deputy national security adviser to the President. I presented him with a 2' x 3' chart I had been given in the aftermath of 9/11. The chart was developed in 1999, as part of a Defense Department initiative dubbed "Able Danger." It diagrammed the affiliations of al Qaeda and showed Mohammed Atta and the

b(6)
b(7)(C)

> infamous Brooklyn cell. Hadley's response was "I have to show this to the big man."[19]

Dr. [redacted] testified that she had talked with Representative Weldon about whether the chart that was provided to Mr. Hadley was supplied by him or by her. She stated that Representative Weldon told her that she supplied the chart and that she told him that he supplied the chart. She testified that Representative Weldon told her, "That I brought all of the charts into his office and that this one that we're talking about with Atta's picture is among them." Dr. [redacted] added, "And I have a different memory of the event than he has, regrettably. I wish I had the same memory."

LTC Shaffer

LTC Shaffer testified that in January 2000 he delivered a chart from LIWA to CAPT [redacted] at USSOCOM headquarters. He stated that he reviewed the chart with CAPT [redacted] and recalled that it contained a Brooklyn cell and a photograph of Mohammad Atta.[20] LTC Shaffer stated there were multiple names listed under the photograph of Mohammed Atta; "It was a photo with several names. There was not one name below it." He added that he recalled the photograph and not the names associated with the photograph. LTC Shaffer added that the quality of the photograph was very poor. He stated that in addition to Mohammed Atta, there were approximately 120 people depicted on the chart, none of whom he recalled. LTC Shaffer also stated that within the Brooklyn cell he believed there were "three other bombers." He added, "It's my recollection, please this is not me saying this, Captain [redacted]'s recollection that there were three other bombers [9/11 terrorists] within that Brooklyn cell."

LTC Shaffer testified that he subsequently possessed the chart or a later version of the chart because it had been left with him by one of the Able Danger team members. He explained that the chart was used to brief Pentagon leadership and, therefore, it was stored in his DIA office at Clarendon, VA. He stated, "I was just simply the repository of that" and "I maintained a copy of it in the office during the time, because we, we were one of the forward holding areas of the Able Danger team." LTC Shaffer added,

> I subsequently had a copy of the chart that was left in Clarendon because the special operations command guys chose to leave it there. I didn't, these charts that I got were not necessarily my charts. They were not given to me as my, because of my duties.

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[19] In a response to Representative Weldon's account, a spokesperson for Mr. Hadley, as quoted in a *New York Times* article published October 1, 2005, stated that Mr. Hadley recalled meeting with Representative Weldon on September 25, 2001, and being shown a chart that was an example of link analysis, but did not recall being shown a chart bearing the name or photograph of Mohammed Atta.

[20] As indicated above, CAPT [redacted] testified that the three charts delivered to him by LTC Shaffer consisted of Figures 1 and 2, and a propeller (or parentage) chart similar to Figure 3.

b(6)
b(7)(C)

LTC Shaffer also stated that while he believed the chart retained in his office did have Mohammed Atta's photograph, he could not be certain. He explained that the chart that was left with him might have been a later version of the chart LIWA had produced and he had delivered to CAPT [redacted] and this later version may not have included Mohammed Atta. He stated, "There were several iterations of the chart made by LIWA. So which exact iteration and if the things were configured slightly different, I can't speak to that, I don't have that level of memory on that."[21]

However, LTC Shaffer testified that he believed that the chart that had been provided to him by a member of the Able Danger team did have a photograph of Mohammed Atta. LTC Shaffer said, "As, as best I can recollect, one of the charts which was brought up by special operations command and left in my possession . . . I believe it was one of the charts with Atta."

LTC Shaffer testified that on September 18, 2001, he met with Dr. [redacted] at a Starbucks coffee shop after she called him and said, "You'll never believe what, what I found." He testified that at Starbucks, Dr. [redacted] showed him the chart that included a photograph of Mohammed Atta. LTC Shaffer stated,

> And she said look at the chart and I started looking at it and I looked up in the corner and there was Atta's photograph again and it was the same chart that I had seen previously during the runs of data. And that was where the light kind of came on that we had linked these guys, we had had these guys identified before 9/11.

LTC Shaffer recalled that after meeting with Dr. [redacted] and reviewing the chart that had a photograph of Mohammed Atta he did not return to his office that day. He added that he never confirmed whether he possessed a chart that included a picture of Mohammed Atta. However, LTC Shaffer did testify that in 2002 he had various people who were working with him review all his Able Danger related materials, including charts. He stated that none of these people ever commented to him that there was a picture of Mohammed Atta on any chart. LTC Shaffer explained during our second interview,

> No, no one ever commented on the Atta picture. And that's why I told you last time, I'm not 100 percent sure that I have -- I believe on one of the charts we did have the Atta picture. I can't tell you I went back and looked at it for sure.

We interviewed all the people whom LTC Shaffer claimed had reviewed the Able Danger materials he asserted he possessed in his DIA office. As discussed in greater detail in Section IV. F. of this report, none of those witnesses recalled seeing any Able Danger documents in LTC Shaffer's possession.

[21] As discussed above any link analysis chart that included photographs was produced by Orion. We obtained no evidence that Orion provided LIWA any other iterations of the chart at Figure 1. LIWA did not produce link analysis charts that included photographs.

b(6)
b(7)(C)

Dr. [redacted] confirmed that she met with LTC Shaffer at a Starbucks coffee shop shortly after September 11, 2001. However, Dr. [redacted] denied that she showed LTC Shaffer a chart at that time. She stated, "Starbucks had those little tables. That chart, I would have had to have rolled out. I can't imagine myself doing that." She added, "I don't remember that chart" and "I did not have a memory of a chart." Additionally, in a document Dr. [redacted] prepared on September 18, 2005, entitled "Able Danger Timeline," Dr. [redacted] wrote that at the meeting with LTC Shaffer at Starbucks, "Shaffer remembers seeing a chart [with Mohammed Atta's photograph]." Dr. [redacted] also wrote in her timeline that she remembered having Able Danger material that "was likely a briefing on the computer not a hard copy chart" which did not contain a photograph of Mohammed Atta.

Dr. [redacted] testified about an occasion in 2005, after Representative Weldon gave a floor speech in the U.S. House of Representatives, where she and Representative Weldon were discussing their concern that they could not locate the chart that had the photograph of Mohammed Atta. She stated LTC Shaffer told them that he had the chart locked in a safe at his office space in Clarendon. Dr. [redacted] stated, "So everyone was not very worried about it until Tony's safe didn't yield any data at all any more."

Colonel (COL) [redacted] U.S. Army, former Chief of Operations for the Defense Human Intelligence (HUMINT) Service, DIA, was LTC Shaffer's second-line supervisor during the period of Able Danger activities. COL [redacted] commented that if LTC Shaffer had, as he asserted, seen a chart within 2 weeks of 9/11 that included photographs of unknown individuals as well as a photograph of Mohammed Atta associated with a Brooklyn cell, LTC Shaffer would have brought that information forward for both its intelligence value and LTC Shaffer's personal gain.

With respect to the chart's intelligence value, COL [redacted] stated that in the period immediately after September 11, 2001, the Intelligence Community was "afraid that because planes got grounded there were other terrorists that may have been waiting to get on flights." COL [redacted] explained that at that time DIA would no longer be interested in running an operation on the individuals depicted in the chart but would get the names to the FBI. He stated that the mission became "getting the FBI involved in and wrapping all these folks up, because at that point it's more of a shooter's war than an intelligence war. You've got to get them off the street." COL [redacted] added that at that time the individuals on the chart needed to be apprehended "yesterday."

COL [redacted] was asked whether a "minimally qualified" HUMINT officer would have appreciated the significance of having a chart depicting Mohammed Atta associated with a Brooklyn cell on which there were other unknown individuals depicted. He answered,

> I think if you've got a HUMINT officer, whether he's minimally qualified or not, I mean, that doesn't take a rocket scientist. That's one of the biggest events that's happened in our history.
>
> So it's something that no matter what, you're going to jump all over that because that is an opportunity to have intel that directly affects

b(6)
b(7)(C)

> and has direct results because you could take that chart and all of a sudden everybody on there is suspect because they're hooked to one guy.

In that regard LTC Shaffer told us that he thought providing the chart to the FBI was a bad idea. He stated, "So the last thing I wanted to do was give it to the FBI and then have them go roll these guys up." LTC Shaffer testified that he took no action with regard to the chart.

Mr. [redacted]

Mr. [redacted], who was employed by Orion from October 1999 to August 2000, was never read-on to the Able Danger program and testified he "didn't even know about Able Danger . . . did not know about the name, Able Danger." Mr. [redacted] told us that he delivered a chart that included Mohammed Atta's photograph to LIWA in January or February 2000. He recalled that the chart was produced in response to a request from LIWA in which Orion was tasked to perform a study related to the 1993 attack on the World Trade Center. He characterized the tasking as "a study of Omar Abdul Rahman . . . and what other personnel may be associated with his particular cell or groups up in New York City."[22] While Mr. [redacted] could not recall the precise request from LIWA, he provided, "The way I remember it, it was 'give us ties and associates of the New York City, what happened in New York City, the people known to cause the New York City issue [referring to the 1993 World Trade Center bombing].' "

In addition to a chart, Mr. [redacted] recalled he also delivered as part of the tasking from LIWA a significant amount of back-up documentation and a report. He stated,

> Also, we had attachments and it was huge and this is, we print every printed report we had that linked them and delivered that. It was, I delivered in boxes literally reams of paper because we couldn't give the software. So what we did was I'd print out every file that supported the pictures.

Mr. [redacted] testified that based upon the complexity of the tasking the chart required a considerable amount of effort and time to produce; "it was about a 30-day full time effort." He reported, "I'm guesstimating based upon that type of work we were doing and we were gathering information basically 24 hours a day and then looking at it and culling through it during the day."

We had Mr. [redacted] draw on a sheet of paper what he recalled from the chart. He placed a box representing Rahman in the upper right hand corner of the chart and then drew boxes representing other individuals in a row below the Rahman box with lines connecting those boxes to the Rahman box. He stated, "I don't remember how many but there was multiple spikes or spokes that led to what we called the second tier people." Of this second tier, Mr. [redacted]

[22] Sheik Omar Abdel-Rahman is a blind Egyptian Muslim cleric who is currently serving a life sentence for seditious conspiracy in connection with terrorist bombing attempts in the United States. He was arrested in 1993 and convicted in 1995.

b(6)
b(7)(C)

recalled, "Oh my, there was, there was more than five and probably less than ten because we filled up the whole chart."

Next Mr. [redacted] drew more boxes that represented individuals in a lower row. He stated, "Atta's picture was one of the third tier and he was over here somewhere . . . on the extreme left side. . . . So I associated it with whoever this person [on the second tier] was." Mr. [redacted] had no recollection of how many individuals were depicted in the third tier. He testified, "There was more . . . oh, I have no clue. There was, we had at least double, two and a half times the second tier." Mr. [redacted] also identified areas on the chart that had contained a photograph of the World Trade Center as well as textual material. Mr. [redacted] could not recall the number of people depicted on the chart. He provided, "because of the size and we had to cram them in, oh, 30 or 40 people altogether I think."

Regarding the photograph of Mohammed Atta, Mr. [redacted] testified, "It was a very grainy, but it was clear enough that you could make out that stare, his high cheekbones, the very, the very pronounced his eyes. Yeah, definitely Atta." He also stated, "It was bad. It looked like it had been transmitted over a low line or it was, had been copied multiple times. It was very grainy." While Mr. [redacted] had a clear recollection of Mohammed Atta's photograph, he did not recall whether there was a name attached to the photograph. Mr. [redacted] stated,

> I'm not sure if it was his name, his name and several others, because on the third level we had so many different names with the same picture we couldn't, we didn't have the ability to, or the intelligence access to, to confirm the names. . . . So I don't honestly remember if it was just Atta or it was a different Arabic name that we had on there, but the picture was very unique.

Mr. [redacted] had no recollection of any other person depicted on the chart but for Omar Abdul Rahman and Mohammed Atta. He stated, "I don't know. I don't know. I just remember Atta. There, there may have been others on there. I don't recall the others." Mr. [redacted] did not recall whether the chart had the term "Brooklyn cell" but recalled "New York City." He stated, "I know it said New York City. It may have said, I don't recall. It may have said Brooklyn, I don't know."

Regarding how Mohammed Atta's photograph had come to be on the chart, Mr. [redacted] stated it was provided by a woman whose name he could not recall during the interview but later confirmed, through his attorney, as Ms. [redacted]. He stated that Ms. [redacted] "was going through Los Angeles or going through Web sites in the Los Angeles area for us and she gathered a lot of the raw data for us."

At the Joint Hearing on the Able Danger Program, held on February 15, 2006, by the House Armed Services Subcommittee on Strategic Forces and Subcommittee on Terrorism, Unconventional Threats and Capabilities, in response to a query by Representative Weldon regarding where he obtained the photograph, Mr. [redacted] stated,

b(6)
b(7)(C)

> We were getting the information from Arab sources through Los Angeles. We were able to get a lot of inside Arabic information . . . we were able to purchase much of the information and get it from their own countrymen. . . . I believe we got that information directly from a mosque.

In a Fox News article, "Third Source Backs 'Able Danger' Claims About Atta," dated August 28, 2005, Mr. [redacted] is quoted as alleging the photograph of Mohammed Atta was "obtained from overseas."

In order to clarify from whom Mr. [redacted] alleged he received the photograph of Mohammed Atta we requested from Mr. [redacted] through his attorney, clarification on this issue. In an e-mail message, dated April 3, 2006, Mr. [redacted]'s attorney provided a statement from Mr. [redacted] in which Mr. [redacted] advised that Ms. [redacted] obtained photographs and other data that were used by analysts at Orion. Mr. [redacted] stated, "As far as I best can recall today, the Atta photograph was supplied by Ms. [redacted]" He added, "However, I cannot rule out that we had another source for it." He also stated, "I do believe we also had people obtaining similar information . . . directly from Mosques."

We pursued the alleged source of Mr. [redacted]'s photograph but obtained no information that corroborated his account. Ms. [redacted] testified that she was employed by Orion as a senior intelligence analyst from April 1999 through May 2001 doing open source intelligence. Ms. [redacted] stated that if she had had a photograph of Mohammed Atta prior to September 11, 2001, she would have received it from Mr. [redacted] Mr. [redacted] had previously been associated with the Task Force on Terrorism and Unconventional Warfare of the U.S. Congress. Mr. [redacted] told us that the possibility of him possessing data that included Mohammed Atta prior to September 11, 2001, was "Absolute zero."

Mr. [redacted] testified he had been in possession of this chart and others produced by Orion because he collected charts that were produced for customers but not delivered to them because of quality problems, such as blurred or smudged lines. He stated he originally kept these charts in the trunk of his automobile. He stated that he later moved the charts from his car trunk and placed them under his bed. He recalled that shortly after September 11, 2001, when he first saw photographs identifying Mohammed Atta as one of the terrorists, he recognized him. Mr. [redacted] testified, "Yeah and I'm looking and I said, Jesus, I recognized his picture instantly. . . . Yeah, I went to my chart to compare and I said there he is."

Mr. [redacted] stated that after discovering Mohammed Atta's photograph on the chart he told numerous people about his identification of Mohammed Atta and showed them the chart. He stated, "I spoke to everybody that would listen to me," "I talked to quite a few people," and "I told them we had previously identified this person as a known terrorist."

When pressed to estimate the number of people with whom he recalled discussing the previous identification of Mohammed Atta and showing them the chart immediately after the 9/11 attacks, Mr. [redacted] stated, "I'd say four or five. . . . Distinctly remember, yes." Though Mr. [redacted] refused to provide the identity of any of the people with whom he spoke, he did

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disclose that one of them is a real estate agent, "and another one's a PhD at the University of Maryland," "The other's a former CIA official who is retired. . . . The other two are coworkers."

Mr. [redacted] was asked to provide the number of people to whom he had shown the chart from the period of October 2001 and October 2002. He estimated that he had shown the chart to between 30 to 40 people. He stated, "[For] anybody that would listen I would reel it out." He added, "a lot of the people that I contacted in my family, they remember the chart but they don't specifically remember Atta's picture."

Mr. [redacted] testified that from October 2002 until August 2004 he prominently displayed the chart containing Mohammed Atta's picture while he was employed by Beta Analytics in Maryland. He testified that he placed the chart on the wall directly across from his desk and stated, "I stared at that everyday." Mr. [redacted] testified that he worked with four other people in the office area, but of those four coworkers, "Some of them recall the chart, but don't specifically recall Atta." Mr. [redacted] added that on 30 to 40 different occasions, when people came to his office and asked about the chart he would "go right to the picture [of Mohammed Atta] and say there, there is that asshole right there."

Mr. [redacted] disclosed that he had recently contacted many people whom he believed he had shown the chart which included Mohammed Atta's photograph. He testified that he had only found two who remembered seeing the photograph and that they would not come forward. He added, "I'm not going to disclose them until counsel releases them." On February 23, 2006, in response to an e-mail request from this Office to Mr. [redacted]'s counsel requesting information regarding witnesses who had seen the chart at issue, Mr. [redacted]'s counsel responded, "I have spoken with two people so far who have informed me that they saw the chart. I am working on getting affidavits though I doubt their names will be referenced - unfortunately.[23]

Mr. [redacted] testified that in August 2004 he moved from his office at Beta Analytics and while taking down the charts that he had posted on the walls, two of the charts, including the one he alleged contained Mohammed Atta's photograph, disintegrated. He testified,

> And in the process of trying to remove it, it had been up there so long I had quite a lot of tape up there because it had been rolled up. In the process the tape was tearing the chart. It just, they were disintegrating from age and this one [the chart that contained Mohammed Atta] I lost and I believe the pie chart I lost.

Mr. [redacted] added,

> Yeah, it came apart in pieces. It shredded itself as I was trying to pull it off the wall carefully. . . . Oh my God, it was a mess. It was just falling apart because of the age. I think it was, it became very brittle,

[23] To date, this Office has not received any affidavits or additional information from Mr. [redacted]'s counsel regarding this matter.

b(6)
b(7)(C)

> so it was, it was just a ball of . . . it wouldn't unfold, it wouldn't do anything so I just threw it away.

Witness 1[24]

Witness 1 was previously assigned to the Special Technical Operations Division at USSOCOM and was assigned to the Able Danger team as an operations planner. Witness 1 emphasized that the objective of Able Danger was to identify "systems that could bring this guy [Usama bin Laden] down. That was the purpose of Able Danger." He recalled seeing the name "Mohammed Atta" in the data base while at the Garland facility, stating "I remember his name in the Access data base." (This data base was built by members of the OCWG and tracked all people and entities against whom searches were conducted). Witness 1 had no recollection of seeing a photograph of Mohammed Atta or a chart depicting a "Brooklyn" or "New York" cell.

Witness 1 testified that he never confirmed whether Mohammed Atta's name was in the data base but agreed that if his memory was accurate, Mohammed Atta's name would be reflected in the data base. After interviewing Witness 1, we reviewed a list of all terms stored in the data base built by the Able Danger team. There was no record of "Mohammed Atta" or "Atta."[25]

In October 2001 Witness 1 was selected to provide a presentation to Representative Weldon about the findings of Able Danger. Witness 1 testified that he described the Able Danger mission, but did not tell Representative Weldon that he saw the name "Mohammed Atta" in the data base at the Garland facility.

Dr. [redacted]

On November 9, 2005, Representative Weldon held a press conference at which he alleged that Dr. [redacted] (formerly Chief Scientist, Intelligence Division, Raytheon Company) had informed him that Mohammed Atta had been identified by the Able Danger team members while working at the Garland facility. Representative Weldon stated,

> Doctor [redacted] told me that his unit also identified Mohammed Atta, not by photo but by name, before 9/11. So now we have two separate data mining efforts [LIWA and Garland] of the military openly and willingly stating on the record that they identified Mohammed Atta before 9/11.

Dr. [redacted] testified that regarding whether he recalled identifying Mohammed Atta prior to September 11, 2001, "It's possible. I just don't remember." Dr. [redacted] added, "I've heard it [Mohammed Atta's name] a long time so I don't remember when I heard it first."

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[24] Based upon operational concerns, Witness 1's identity was shielded.

[25] A listing of all entities and individuals against whom searches were conducted was printed and retained at USSOCOM when the Able Danger team departed the Garland facility.

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b(7)(C)

Dr. [redacted] testified that he told Representative Weldon, "I didn't recall one way or the other. It might have happened that that name [Mohammed Atta] was on there." He stated that Representative Weldon "exaggerated what I said." However, Dr. [redacted] added, "I actually think it might have been but I can't say for sure."

Mr. [redacted]

Mr. [redacted] was a USSOCOM counter-terrorism intelligence analyst assigned to the Able Danger team. He testified that he recalled seeing a photograph of Mohammed Atta projected on a large screen while at the Garland facility. Mr. [redacted] stated that Mohammed Atta's face was one of the hundreds of faces that he had seen while working on Able Danger. He did not recall whether a name was associated with the photograph. Mr. [redacted] stated that the picture was from an open source Internet site and was not stored on the Able Danger computers. He added that at the time "we didn't know how big a terrorist he was, how small a terrorist or anything else or if he in fact, he truly was a terrorist, it was just some kind of link."

Discussion

We concluded that the Able Danger team did not identify Mohammed Atta or any of the 9/11 terrorists as possible threats at any time during its existence. Further, witnesses purporting to have seen a chart obtained by the Able Danger team from LIWA but produced by Orion depicting Mohammed Atta and other 9/11 terrorists were in error. Although it is conceivable that the name "Mohammed Atta" or a photograph of Mohammed Atta may have appeared along with thousands of other bits of information examined by the Able Danger team, neither Mohammed Atta nor any other 9/11 terrorist was identified in a manner that would have linked them to al Qaeda or justified more focused information gathering. We set forth the following points to support this conclusion:

- Virtually every knowledgeable witness described the mission of Able Danger as strategic in nature -- the development of a campaign plan to obtain information useful for attacking the al Qaeda support infrastructure. Although Able Danger identified various individuals, entities, and corporations potentially linked to al Qaeda in order to achieve that mission, the information itself was for purposes of demonstration and was not subjected to rigorous intelligence analysis.

- Although Able Danger was in existence for about 12 months, only a small portion of that time was devoted to mission-related work. The first 9 months were characterized by "false starts" and repeat efforts to find a suitable operating environment and location. Significant mission-related work did not begin until July 2000 and was essentially completed by November 2000. The final product was a briefing in January 2001 that described a campaign plan.

- While several key witnesses -- primarily LTC Shaffer, CAPT [redacted] and Dr. [redacted] -- claim to have seen Mohammed Atta's picture on an Orion chart that was provided to CAPT [redacted] in January/February 2000, their recollection was not

b(6)
b(7)(C)

credible. The conflicts and inconsistency in their testimonies, coupled with other evidence concerning the charts at issue, provided overwhelming rebuttal to their claims. In particular we noted:

- The evidence indicated that the chart recalled by these key witnesses is the chart at Figure 1 of this report -- Dr. [redacted]'s denials notwithstanding. It bears the title mentioned by CAPT [redacted] in a contemporaneous memorandum and contains information described, in various ways, by LTC Shaffer and Dr. [redacted] That chart, as well as the chart at Figure 2 also obtained by Able Danger, were provided to CAPT [redacted] as examples of link analysis for the Able Danger team. Both charts were produced by Orion and depicted terrorists known to have engaged in the 1993 World Trade Center bombing and/or the 1998 African embassy bombings.

- Of the three witnesses, CAPT [redacted] participated in Able Danger on a day-to-day basis and had in-depth knowledge of Able Danger operations. LTC Shaffer and Dr. [redacted] did not. The evidence suggested that they based their claims regarding the identification of Mohammed Atta on information provided to them by CAPT [redacted], who ultimately acknowledged to us that he did not see Mohammed Atta's picture on any chart, but claimed that while at USSOCOM headquarters he had a fleeting glimpse -- 4 or 5 seconds -- of a picture of someone whom he stated he believed was Mohammed Atta. We did not consider that recollection credible. CAPT [redacted] made the claim in our third interview only after being provided strong evidence that Mohammed Atta never appeared on any chart provided to the Able Danger team.[26] Further, we questioned anyone's ability to make an after-the-fact identification of the type claimed here.

- Based on the testimonial evidence from GEN Schwartz, CDR [redacted] Mr. [redacted] and Mr. Snell, it is our conclusion that CAPT [redacted] inflated his claims regarding Able Danger's success in identifying 9/11 terrorists in order to promote his role as an advocate for data mining in the war against terrorism. His representations to those officials, however, were so tenuous that they were either not specifically recalled (CDR [redacted]), refuted (GEN Schwartz), or not considered worthy of pursuit (Mr. [redacted] Mr. Snell). We considered Mr. Snell's negative assessment of CAPT [redacted]'s claims particularly persuasive given Mr. Snell's knowledge and background in antiterrorist efforts involving al Qaeda. Further diminishing CAPT [redacted]'s credibility was his assertion to us that the last time he saw a link analysis chart (Figure 1) was in July

[26] We noted that CAPT [redacted] failed to notify us about recalling seeing a photograph of Mohammed Atta on a document while at USSOCOM headquarters between our second (February 17, 2006) and third (May 24, 2006) interviews but sent 12 e-mail messages to us during that period updating other information he provided.

b(6)
b(7)(C)

or October 2000, contrary to CDR [redacted]'s testimony that CAPT [redacted] shared the charts at Figures 1 and 2 with him aboard the USS ESTOCIN during the 2002-2003 time period.[27]

- Dr. [redacted] provided a variety of scenarios describing her identification of Mohammed Atta before 9/11 -- none of them credible. In her interviews with the Army she had no recollection, but later recalled a chart that included the word "Atta" associated with a Brooklyn cell without a picture of Mohammed Atta. She denied that the chart at Figure 1 was the one she provided to CAPT [redacted], but the evidence, particularly CAPT [redacted]'s testimony, demonstrated that it was. Moreover, in her first interview with us she indicated the chart that she saw had Mohammed Atta's picture with "religious holy men" separate from the Brooklyn cell. Later in the interview, she claimed the picture was part of the Brooklyn cell. In a subsequent interview, Dr. [redacted] no longer recalled seeing Mohammed Atta's picture on the Orion chart she claimed to have provided CAPT [redacted] and recalled seeing only his name.

- We were unable to corroborate Dr. [redacted]'s assertion that she provided CAPT [redacted] a second chart that included a dot with the name "Atta" associated with a Brooklyn cell. She testified that this chart was produced in January 2000, prior to LIWA's support for Able Danger and based on data that had been collected for previous projects related to technology transfers and support to U.S. Army units in Bosnia and Korea. Assuming for the sake of argument that a single chart with dot and the name "Atta" associated with a Brooklyn cell existed in January 2000, it would have been of limited intelligence value prior to September 11, 2001.

- LTC Shaffer had minimal involvement in the analytical work conducted by Able Danger. He served as liaison between Able Danger and Dr. [redacted] at LIWA, and later assisted in providing logistics assistance to the team. Any information he obtained regarding Able Danger "discoveries" would have been second hand -- primarily from CAPT [redacted], who ultimately denied seeing Mohammed Atta's picture on a chart. Additionally, as described in detail under Section IV.F. of this report, we found no evidence to corroborate LTC Shaffer's claim that he was a "repository" for Able Danger materials and thereby came to possess a chart containing Mohammed Atta's picture.

- In particular, we consider not credible LTC Shaffer's assertion that he viewed a chart containing Mohammed Atta's picture during a meeting with Dr. [redacted] at Starbucks on September 18, 2001. As described by LTC Shaffer, the chart was identical to the one he provided to CAPT [redacted] in January 2000 (Figure 1) and contained Mohammed Atta's photograph, along with photographs of 120 other unknown individuals. Dr. [redacted] denied possessing a chart at this meeting. Further, we find implausible that, as an intelligence officer, LTC Shaffer took no action to alert his supervisors or law enforcement authorities of the identities of

[27] CAPT [redacted] did not challenge CDR [redacted]'s recollection.

b(6)
b(7)(C)

120 individuals with possible links to Mohammed Atta, given the situation immediately following 9/11. Accordingly, we conclude that the chart, as described by LTC Shaffer, did not exist.

- None of the Able Danger team members, who were in a far better position to describe Able Danger findings, made the type of identification of Mohammed Atta that characterized Dr. [redacted] and LTC Shaffer's claims. Colonel [redacted] who headed Able Danger during its most productive period, made no claim regarding Mohammed Atta. Similarly the officers who provided the final Able Danger briefing to GEN Shelton made no claims of discovering the identity of possible terrorists, even though doing so may have strengthened the case for Able Danger success. While some of the team members suggested that they may have come upon Mohammed Atta's name or picture, we must consider the fact that those analysts were reviewing thousands of names and pictures at a time when the identities of Mohammed Atta and other 9/11 attackers were unknown. Given those factors, we do not consider such after-the-fact identifications credible.

- Finally, we concluded that Mr. [redacted] did not possess or display a chart with Mohammed Atta's picture on it -- a chart which he claimed had been produced by Orion under contract with LIWA. Although Mr. [redacted] told us that he showed the chart to over 50 people from September 2001 to August 2004, he was unable to identify a single person willing to corroborate his assertion. Further, Mr. [redacted]'s recollection of the chart was exceedingly vague, even though he claimed to have looked at it daily while at work -- he was unable to recall a single individual on the chart except for Mohammed Atta and Sheik Rahman. Further, Mr. [redacted] did not recall whether the photograph included Mohammed Atta's name. Finally, we found Mr. [redacted]'s assertion that the chart disintegrated on removal implausible.

B. Did DoD officials prohibit Able Danger members from sharing relevant terrorist information with the FBI, the CIA, or other agencies which could have acted on that information?

Standards

DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components That Affect United States Persons," dated December 1982

This regulation establishes procedures to enable DoD intelligence components to perform their functions while ensuring that intelligence activities affecting United States persons are carried out in a manner that protects the privacy and constitutional rights of such persons. The regulation was applicable to Able Danger activities that, incidental to its mission, collected information on United States persons.

The regulation defines a United States person as: (1) a United States citizen; (2) an alien known by the DoD intelligence component concerned to be a permanent resident alien; (3) an unincorporated association substantially composed of United States citizens or permanent

b(6)
b(7)(C)

resident aliens; and (4) a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government.

Chapter 4, Procedure 4, of the regulation provides that under certain circumstances information about United States persons that is collected or retained by a DoD intelligence component may be disseminated to the cognizant law enforcement entity of the Federal, State, or local Government. Accordingly, had Able Danger obtained information concerning terrorist activities, restrictions concerning intelligence gathering activities on United States persons would not have prohibited sharing such information with the FBI.

Facts

Various media articles and congressional testimony suggested that the 9/11 terrorist attack might have been prevented if intelligence information obtained by Able Danger had been provided to the FBI. In view of the conclusion in Section A above, we find no basis for this type of speculation. That is, we concluded that Able Danger did not identify Mohammed Atta or other 9/11 terrorists, but rather developed a concept of operations and identified advanced analytical information technology tools useful for future intelligence gathering operations. As a result, the allegation that Able Danger participants were "prevented by lawyers" or other DoD officials from contacting the FBI becomes less significant. Nevertheless, we sought to determine the extent to which restraints were imposed on Able Danger communications with the FBI and the basis for any such restraints.

CAPT [redacted] testified that, during the early stages of the Able Danger program, intelligence analysts identified potential issues involving data collection on United States persons and expressed concerns with revealing the identities of the Brooklyn cell members shown on Figure 1. Because of that issue, and his belief in the potential utility of the chart, he concluded that Able Danger should initiate coordination efforts with the U.S. Department of State and the FBI. He testified that on March 16, 2000, he made such a suggestion to MG Lambert, who directly supervised the Able Danger operations. According to CAPT [redacted] "Gen Lambert looked at me and he goes are you fucking nuts?" MG Lambert testified that he did not recall the conversation.

However, CAPT [redacted]'s recollections regarding this incident were inconsistent. During our first interview, CAPT [redacted] testified that when he spoke to MG Lambert he had the chart with him because, "they [Brooklyn cell members] were depicted on this chart." His intent was to "transition the information and be done with it" by providing the chart to the FBI. He stated that there were no other instances during the course of Able Danger in which he had information that he wanted to provide to the FBI.

During our second interview, CAPT [redacted] denied that he had the chart with him when he spoke with MG Lambert or that he intended to provide the chart to the FBI. Rather, he characterized the interaction with MG Lambert as "I'm talking about al Qaeda in general when I approached him. 'We need to coordinate with FBI and State Department.' " He explained that MG Lambert's decision not to coordinate with the FBI and State Department during the March 2000 time frame was "more a function of timing" than it was a wholesale rejection of FBI

b(6)
b(7)(C)

involvement. CAPT [redacted] stated, "GEN Lambert stressed at that point, 'No, don't give this to the FBI yet. Don't bring in the FBI and State yet.' " CAPT [redacted] stated he did not have any specific intelligence to share with the FBI at the time. Additionally, when asked to discuss instances in which he was told he could not provide specific information to the FBI, CAPT [redacted] testified, "none that I recall."

Significantly, CAPT [redacted] testified that in September 2000, after the Able Danger team moved to the Garland facility, he learned that MG Lambert was actively working to coordinate with the FBI. With respect to MG Lambert's intentions regarding sharing information with the FBI, CAPT [redacted] reflected on the March 2000 conversation as, "So, you know, there's a moment in time that he pushed back. . . . It was just spur of the moment in an isolated setting, 'No, let's not do it now.' "

In our first interview, CAPT [redacted] told us that after his March 2000 discussion with MG Lambert, he talked with LTC Shaffer about the United States persons issue and that he (CAPT [redacted]) believed the chart with the Brooklyn cell should be provided to the FBI. While CAPT [redacted] did not ask LTC Shaffer to contact the FBI, he was under the impression that LTC Shaffer made such contact. In fact, CAPT [redacted] believed that LTC Shaffer had contacted the FBI and arranged for a meeting between Col [redacted] and members of the FBI. CAPT [redacted] testified, "[LTC Shaffer told me] 'I've brokered a meeting with Col [redacted] and the agency [FBI] and, you know, it's set for such and such a date.' " CAPT [redacted] stated he subsequently was told by LTC Shaffer that Col [redacted] did not attend the scheduled meeting.

LTC Shaffer testified that on the recommendation of CAPT [redacted] he set up three meetings between FBI representatives and Col [redacted] whom he described as "the chief of Able Danger, the big guy, the actual O-6 [colonel] in charge of the project." LTC Shaffer testified the information that Col [redacted] was going to provide to the FBI related to the Brooklyn cell. In order to set up the meetings, LTC Shaffer said that he contacted Unit Chief (UC) [redacted] FBI, "and asked her for the point of contact I needed to have to set up this meeting."[28] He recalled that the point of contact was the Usama Bin Laden Unit, Washington Field Office, FBI.

LTC Shaffer told us that three meetings were subsequently scheduled for Col [redacted] to meet with agents from the Usama Bin Laden Unit. He recalled that he asked his deputy, COL (then LTC) [redacted] U.S. Army Reserve, to schedule the first two meetings between Col [redacted] and FBI agents, but he personally contacted the Usama Bin Laden Unit to schedule a third meeting. LTC Shaffer could not recall with whom he spoke at the FBI. He testified, "I mean, it's one of those things where I made the phone call, I wrote down the information, I brokered the meeting." He added, "And it wasn't recurring enough that it actually became part of my engraved memory who I was dealing with over there."

[28] UC [redacted] and LTC Shaffer attended the same high school and remained personal friends. Additionally, they had a professional relationship and had worked together on an FBI matter in which DIA provided support.

b(6)
b(7)(C)

LTC Shaffer testified he later heard from CAPT [redacted] that the "SOCOM lawyers" had prohibited Col [redacted] from meeting with the FBI. LTC Shaffer also recalled that UC [redacted] called him to ask why Col [redacted] failed to show up for the scheduled meeting. He testified UC [redacted] said, "Why didn't your guy show up to the meeting?" LTC Shaffer added that UC [redacted] was the only person at the FBI he recalled speaking with on this issue. LTC Shaffer added that he told COL [redacted] his second-level supervisor at DIA, about the Brooklyn cell and that he was "having problems passing [the] information over to the FBI."

At the Joint Hearing in February 2006, LTC Shaffer testified he arranged the third meeting between the FBI and Col [redacted] only after an FBI special agent said to him, "Why aren't you guys showing up at these meetings? My colleagues have called me and tell me you guys keep blowing them off." LTC Shaffer testified he thereafter contacted CAPT [redacted] and inquired why Col [redacted] failed to attend the scheduled meetings. LTC Shaffer stated,

> So I called down to Captain [redacted] as I recall, and said: 'What's going on? Why aren't you guys showing up for these meetings?' And that's when I was informed that they were told that they couldn't -- they, Special Operations Command, were told by their legal advice, their legal attorneys, they were not supposed to show up for these meetings. And that was the issue.

In a written response to questions from Representative Cynthia McKinney that arose out of the Joint Hearing, LTC Shaffer further discussed his allegation that he had arranged for meetings between Col [redacted] and the FBI. He asserted, "I was asked in the late Summer and early Fall of 2000 to set up meetings." He added that the meetings "were set and rescheduled at least three times, the last being in the September/October 2000 time frame." LTC Shaffer further wrote, "He [Col [redacted] did not meet with the FBI and I was told by the FBI that he did not make the meeting."

In his response to Representative McKinney, LTC Shaffer asserted that according to CAPT [redacted] MG Lambert canceled the meetings. LTC Shaffer wrote, "It is my understanding, as gained from conversations with [CAPT] [redacted] that [redacted] s meetings were canceled by MG Lambert." LTC Shaffer added, "I personally did not, because of the SOCOM OPSEC [Operations Security] restrictions, share specifics of Able Danger with the FBI or any other non-DIA organization."

We found insufficient evidence to corroborate the assertions of LTC Shaffer that DoD officials prohibited Able Danger participants from attending meetings with the FBI.

A statement by UC [redacted] dated December 12, 2005, made to Supervisory Agents, Inspection Division, FBI, explained that in March or April 2000, in response to a request from LTC Shaffer, she gave LTC Shaffer the telephone number of the Usama Bin Laden Unit or the FBI headquarters' switchboard. She stated this was the only conversation she had with LTC Shaffer concerning him requesting a point of contact at the FBI. She further stated that she had "never received any requests to schedule meetings related to Able Danger." After we told

b(6)
b(7)(C)

LTC Shaffer of UC [redacted]'s statement in which she denied involvement in the alleged scheduled meetings LTC Shaffer testified,

> It was either her or someone over there [at the FBI] that we made the meeting with. I, my memory on this is not exact but someone called me and said, "He didn't show up. What's going on?"

CAPT [redacted] described the purportedly scheduled meetings with the FBI as "something I have the least knowledge of." He denied ever telling anyone, including LTC Shaffer, that the lawyers at USSOCOM or MG Lambert prohibited Col [redacted] from meeting with the FBI. CAPT [redacted] provided, "As I understood it, Col [redacted] didn't go but I never knew why." CAPT [redacted] stated, "That was something that happened between Tony [Shaffer] and Col [redacted]" and "I guess Tony was talking to Col [redacted] primarily."

Col [redacted] denied that he had ever been scheduled to meet with the FBI in order to provide Able Danger material. When Col [redacted] was asked to describe his reaction upon reading in press accounts that he had failed to attend three meetings scheduled with the FBI in order to provide information from Able Danger, he responded, "Ah astonishment. Basically a bunch of, well BS. No, I was, I recall nothing of that sort." However, the memorandum prepared by Col [redacted], dated October 17, 2000, which provided an update on OCWG activities (previously mentioned in the Background section above), also described Col [redacted]'s upcoming schedule, advising that he planned "on going to LIWA and the FBI the latter part of next week." When we asked Col [redacted] about that memorandum, he stated that he had no recollection of traveling to Washington, D.C., to meet with the FBI during October 2000.

Contrary to LTC Shaffer's assertions, COL [redacted] denied ever contacting the FBI in order to set up a meeting between Col [redacted] and an agent of the FBI. COL [redacted] acknowledged that she had contacted FBI representatives on other matters, but under repeated questioning denied ever doing so to convey information obtained by Able Danger. She told us that if anyone made the call regarding Able Danger, "[it] would've been Tony [LTC Shaffer]."

In a letter to Senator Arlen Spector, dated September 20, 2005, Ms. [redacted], Office of Congressional Affairs, FBI, reported that the FBI queried their Automated Case System and existing telephone message logs for the Usama Bin Laden Unit and Strategic Information and Operations Center for references to Able Danger, CAPT [redacted], LTC Shaffer, and Mr. [redacted] between the period of January 1, 2000, and September 11, 2001, and received negative results. The letter also indicated that negative results were received when current FBI personnel who were assigned to the Usama Bin Laden Unit in April and May of 2000 were asked whether they had any contact of any kind, including meetings, telephone calls, e-mail, or other correspondence with CAPT [redacted], LTC Shaffer, and Mr. [redacted] On April 14, 2006, in response to an inquiry from this Office, Ms. [redacted] Inspections Division, FBI, provided that her office conducted a search of pertinent records to determine whether there were any references for '[redacted]' or '[redacted]' This search also produced negative results.

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Mr. [redacted], Senior Intelligence Analyst, Joint Intelligence Task Force Combating Terrorism, DIA, testified he had been read-on to the Able Danger program in 1999 and had attended the January 10, 2000, conference at JWAC. He added that he had met LTC Shaffer for the first time at that conference. Mr. [redacted] testified that when he joined DIA in 1997, he was DIA's first full-time al Qaeda analyst and was attached to the Transnational Warfare Center (TWC). He stated that working as an al Qaeda analyst he became a member of a "small, sort of tight knit community with NSA [National Security Agency], and FBI and CIA . . . State Department, other parts of the intel community." He added, "We were talking every single day, multiple times a day about intel that was out."

Mr. [redacted] added that he was confident that any DIA employee working in Defense HUMINT in 1999 and 2000 who possessed information indicating there was an al Qaeda cell in the United States would have known to provide that information to the FBI or the TWC. Accordingly, Mr. [redacted] stated that if attempts to transfer the information to the FBI were unsuccessful, the HUMINT office would know to provide the information to the TWC. Mr. [redacted] stated,

> If you are a Defense HUMINT officer [in the 1999-2000 time frame], it means you are a DIA employee. And if you don't know there is a DIA all source fusion center for terrorism [Transnational Warfare Center], then you have done a very poor job.

COL [redacted] testified that he "had a lot of contact with" LTC Shaffer because LTC Shaffer was working on special projects about which COL [redacted] needed to be kept informed. With regard to providing information related to suspected terrorists within the United States, COL [redacted] discussed that in 2000 a Defense HUMINT officer would have had various options. He stated, "The first thing that [he] would do is that would be passed as an actionable lead for Defense HUMINT Service." He added, after coordinating with the FBI, the Defense HUMINT Service would, "in that particular time frame . . . would have tried to have taken the lead in running an operation against those particular individuals because they were at that point one of our number one targets."

COL [redacted] added that in 2000 DIA "would have taken it and tried to run with it as a Defense HUMINT Service-led operation." COL [redacted] added that LTC Shaffer would have been aware that Defense HUMINT would take the lead on such an investigation because "he was involved in a couple of them." COL [redacted] also indicated that he would be surprised if LTC Shaffer had attempted to schedule meetings with the FBI by contacting the Usama Bin Laden Unit rather than coming to him "and saying, 'We need to have a meeting with the bureau,' because they [HUMINT officers] knew that if we needed a meeting with the bureau we could get one." Finally, COL [redacted] testified that although he was read-on to the Able Danger program, he was not informed by LTC Shaffer that there had been any problems with passing intelligence information to the FBI.

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Discussion

We did not find evidence that DoD attorneys or other senior DoD officials prohibited Able Danger participants from sharing information with the FBI. Further, we did not find credible LTC Shaffer's assertions that Col [redacted] failed to attend meetings that were arranged with the FBI to discuss Able Danger matters. We set forth the following points to support this conclusion:

- As a preliminary matter, we note that Able Danger did not develop the type of intelligence information that would be actionable by law enforcement authorities. Figure 1, provided by Orion in January 2000, contained the names and/or photographs of 53 terrorists who had already been identified and in many cases, incarcerated, before 9/11. We consider it unlikely that the FBI did not already possess the information conveyed by that chart.

- None of the principal witnesses in the matter corroborated key activities that LTC Shaffer attributed to them.

  - CAPT [redacted] denied telling LTC Shaffer that DoD officials prohibited contact with the FBI. Rather, CAPT [redacted] testified that the only knowledge he had regarding prohibited FBI contacts was based on information he received from LTC Shaffer.

  - COL [redacted] denied contacting the FBI to arrange meetings for Col [redacted], contrary to LTC Shaffer's assertions.

  - UC [redacted] acknowledged LTC Shaffer's request in March or April 2000 for an FBI point of contact, but denied any further conversations with him regarding meetings on Able Danger. UC [redacted]'s statement thus corroborates CAPT [redacted]'s recollection that his discussions with LTC Shaffer regarding contact with the FBI occurred in March/April 2000, not "Summer and early Fall" as LTC Shaffer indicated in his response to Representative McKinney. Further, since CAPT [redacted] testified that he understood MG Lambert was actively working to coordinate with the FBI in September 2000, there was no reason for CAPT [redacted] to ask LTC Shaffer to act as an intermediary with the FBI at that time.

    Moreover, although LTC Shaffer initially testified that it was UC [redacted] who complained to him about Col [redacted]'s nonattendance at scheduled meetings with the FBI, he later revised his assertion based on UC [redacted]'s denial of such contact. In later testimony LTC Shaffer stated that it could have been someone else at the FBI. In view of LTC Shaffer's longstanding friendship with UC [redacted], we question his inability to recall whether or not UC [redacted] was the person who registered the relatively serious complaint of DIA noncooperation with the FBI.

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- Col [redacted] denied that he attempted to meet with the FBI in order to share Able Danger information and considered LTC Shaffer's allegations in that regard inaccurate. We acknowledge that Col [redacted]'s denial appears inconsistent with his memorandum of October 17, 2000, which mentioned a forthcoming FBI visit. As Col [redacted] had no recollection regarding the background for that memorandum, we were unable to determine whether, in fact, such a visit ever took place, and if so, its purpose. Nevertheless, from a broader perspective, Col [redacted]'s memorandum indicates that as of October 17, 2000, when he was planning follow-on Able Danger activities, he was not prohibited from meeting with the FBI.

- COL [redacted], LTC Shaffer's second-level supervisor, testified that LTC Shaffer never indicated to him a need to set up meetings with the FBI or expressed concerns to him regarding restrictions on Able Danger contact with the FBI. Rather, COL [redacted] pointed out that LTC Shaffer could have arranged contact with the FBI by working through his supervisory chain (i.e., COL [redacted], but failed to do so.

- A records review indicated that the FBI had no record of contacts related to Col [redacted], Able Danger, CAPT [redacted], Mr. [redacted], or LTC Shaffer.

- LTC Shaffer had other alternatives to providing the information to the FBI, other than direct contact. As Mr. [redacted] testified there was a section in DIA, the TWC, which was responsible for issues related to terrorism and was in regular contact with the FBI. LTC Shaffer's failure to communicate with the TWC is inexplicable given his introduction to Mr [redacted] at the January 10, 2000, conference at JWAC.

C. Did DoD officials improperly direct the destruction of Able Danger mission related data?

Standards

DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components That Affect United States Persons"

DoD 5240.1-R sets forth procedures governing the kinds of information about United States persons that may knowingly be retained by a DoD intelligence component without the consent of the person who the information concerns. It provides, in part, that information that is incidentally collected on United States persons may be retained temporarily, but not more than 90 days, solely for the purpose of determining whether that information may be permanently retained for an authorized purpose.

Facts Concerning Data Destruction at LIWA

We determined that sometime during the April/May 2000 time period, data that had been collected at LIWA in support of the Able Danger mission was destroyed. This destruction was

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carried out by Mr. [redacted] (Chief, LIWA Intelligence Branch), who told us that he destroyed approximately 2.5 terabytes of data that he had collected in anticipation of providing support to Able Danger team members during March 2000. In addition to data, Mr. [redacted] testified that work products which he had developed during his preliminary analysis of that data were also destroyed. He indicated that the destruction of Able Danger material was carried out to comply with the 90-day limit, imposed by DoD 5240.1-R, regarding retention of information on United States persons.

Mr. [redacted] testified that he destroyed Able Danger data shortly after LTG Noonan (then Commanding General INSCOM, parent organization of LIWA) terminated LIWA support to the Able Danger program and ordered all analysts to stop work on the program.[29] Mr. [redacted] told us that his actions complied with direction from Major [redacted], U.S. Army, the LIWA Legal Advisor and designated intelligence oversight officer, who reminded him at the time: "You guys are going to have to delete this data for intelligence oversight reasons." After receipt of that direction, Mr. [redacted] testified that he reviewed a copy of the Army regulations to determine for himself whether he did, in fact, need to destroy the data. He told us that his review confirmed the guidance given by Major [redacted], and thereafter, counted back to when he had collected the data in order to determine the "absolute last day" that the data could be destroyed to comply with the 90-day limit. He stated,

> I was upset with the fact that we would lose the analysis, all the work that we had done. And I wasn't completely confident that we would be able to recreate the analysis. We'd be able to collect the data. I didn't care about that. We could go find more data and recreate that process.

We found that impetus for the destruction of Able Danger data stemmed from concerns regarding the retention of data on United States persons that was collected as part of a LIWA venture immediately preceding Able Danger. That venture, known as the "Joint Counterintelligence Assessment Group (JCAG) demonstration," had parallels to the Able Danger mission. That is, the JCAG demonstration sought to apply advanced analytical tools to data collected from open and DoD sources in order to identify and assess hostile espionage threats. Because the JCAG experience caused a heightened sensitivity to collection of data on United States persons at LIWA and ultimately resulted in the decision by LTG Noonan to withdraw support for Able Danger with the attendant destruction of Able Danger data, we believe a summary of the JCAG experience is helpful to understanding the atmosphere that existed at LIWA in early 2000.

In February 1999 Dr. John Hamre, former Deputy Secretary of Defense, proposed a "threat mapping model" for industrial security. Dr. Hamre testified the proposal was a reaction to "an active espionage operation by a hostile intelligence force." As part of this threat mapping model Dr. Hamre established a task force "to find a way to develop analytic tools to try to find out how hostile forces would come at us." LIWA was selected to perform the demonstration. Dr. Hamre testified, "And we said, please use advanced data mining techniques to determine what would be the potential paths or avenues of hostile penetration." He stated that the goal was

[29] See Background section above for additional detail regarding LIWA support to Able Danger.

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to evaluate whether DoD had "the proper security structures in place to stop or detect" hostile penetration attempts.

In May 1999 JCAG was formally proposed. Contemporaneous documentation indicated the JCAG demonstration was to follow all applicable intelligence oversight and DoD General Counsel guidance regarding handling of data that included United States persons information. Data for the JCAG demonstration was to be supplied by various Government agencies and obtained from open sources. Further, the demonstration was to be completed in November 1999. The May 1999 documentation also stated that upon completion of the demonstration, data would be purged from the LIWA system.

In late October 1999 the Department of the Army provided guidance to LIWA that stated that upon completion of the JCAG demonstration, all data would be purged from the LIWA system and data bases would be returned to the agency that supplied the data base. It added that under no circumstances would data be maintained for more than 90 days without a "collection determination" in accordance with DoD 5240.1-R.

Dr. Heath was tasked to oversee the JCAG demonstration. He testified, "The whole intent was to do a 90-day proof of principle so they would understand what legal and policy issues needed to be addressed as we moved into a digital age." He stated that he clearly understood from the inception of the JCAG demonstration that at the end of the 90 day period "we were supposed to get rid of the data because it was meant to be a proof of concept." He added, "we didn't want a pot of data that would potentially have U.S. citizens . . . without clear guidance from the lawyers in terms of how we had to treat the data."

Dr. Heath selected Dr. [redacted], Mr. [redacted], and two analysts working for Mr. [redacted] to work on the JCAG demonstration. Beginning in August or September 1999, the LIWA team applied data mining and data visualization to the Government data bases that had been provided as well as to large amounts of data from the World Wide Web they had "harvested."

LTG Noonan testified that in November 1999 he became aware of interest by Members of Congress in the JCAG demonstration project and subsequently briefed several Members of Congress, using charts depicting link analysis. LTG Noonan stated he was not comfortable with sharing that information because of his concerns that the information LIWA collected "was not vetted, and by vetted, I mean it hadn't been analyzed." LTG Noonan stated, "There were a bunch of . . . things on there that I inherently knew probably weren't right."

Although LTG Noonan told us that he repeatedly reminded the Members of Congress "that this hasn't been vetted," the Members expressed keen interest in the charts, some of which suggested links between United States persons and foreign sources. Because of concerns that LIWA might destroy the data, a congressional subpoena was issued on November 16, 1999, for JCAG demonstration documentation. LIWA complied with the subpoena and provided a copy of all the data that had been produced during the JCAG demonstration.[30] Immediately after the subpoena was received all work on the JCAG demonstration ceased.

[30] Approximately 30,000 pages were provided pursuant to the subpoena.

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During interviews with us, Dr. Hamre and LTG Noonan expressed concern with the release of raw data on United States persons that had not been subjected to any type of rigorous analysis. They noted that the information released to Members of Congress was easily misinterpreted because it implied associations and linkages between United States persons and foreign sources that were attenuated and without any intelligence significance. LTG Noonan explained, "When you do link and node analysis, names just pop up, and then you've got to vet every link and every node. That was the part of the JCAG site that we had not [yet] done."

LTG Noonan testified that based on the experience of the JCAG demonstration he was unwilling to permit LIWA to support the Able Danger mission without first receiving guidance from higher Army authorities. We reviewed e-mail that showed that on April 5, 2000, Commander (CDR) [redacted], Judge Advocate General Corps, U.S. Navy, former Chief of International Operational Law, USSOCOM, met with Army officials, including active duty attorneys from INSCOM and the Office of the Army Judge Advocate General (International and Operational Law Directorate), to discuss LIWA support to the Able Danger team. The e-mail indicated that "in [the] best interest of the Army" a proposed "LIWA Methodology" setting out parameters for LIWA's support to the Able Danger mission would be provided to the Legal Counsel to the Chairman of the Joint Chiefs of Staff for review and comment. This LIWA methodology addressed issues regarding collection of data on United States persons.

By memorandum to the Army dated April 14, 2000, Rear Admiral (RADM) Michael F. Lohr, Judge Advocate General Corps, U.S. Navy, then-Legal Counsel to the Chairman of the Joint Chiefs of Staff, expressed concern that LIWA would be data mining both Government data bases and open source data which would enable it "to pull together into a single data base a wealth of privacy protected U.S. citizen information in a more sweeping and exhaustive manner than was previously contemplated." RADM Lohr added, "We . . . need to think carefully how we want to deal with a capability which can gather such information into one cross-referenced super-data base." He also stated that the decision for DoD to operate such an extensive data base with potential "domestic collection restrictions" concerns "should be decided at a very senior DoD policy level." RADM Lohr indicated that he had consulted with an attorney in the Office of the DoD General Counsel and the attorney agreed that "the best course of action in the short-term would be to limit LIWA to DoD data bases for purposes of supporting the USSOCOM planning effort [Able Danger]."

Shortly after receiving RADM Lohr's memorandum, LTG Noonan terminated LIWA's support to the Able Danger mission and ordered LIWA analysts to stop work supporting the Able Danger mission. As described above, Mr. [redacted] destroyed the data collected for Able Danger training purposes shortly thereafter.

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Facts Concerning Data Destruction at the Garland Facility

Mr. [redacted] testified that when the Able Danger team left the Garland facility to return to USSOCOM headquarters a large quantity of "extraneous" data that had been collected by the Able Danger team was destroyed. Mr. [redacted] provided, however, that the team retained all the data they considered useful. He stated, "I know because I helped retain it back here in [the current USSOCOM facility] . . . I was involved with the CDs . . . helping to load the CDs onto the system."

According to CAPT [redacted], however, the Able Danger team "made very little progress" at Garland by the end of October 2000 when he left. He acknowledged that the team "collected a lot of stuff," but we "never got any product partially because nobody had a firm agreement on what the product should be."

Discussion

We determined that the destruction of Able Danger data at LIWA and at the Garland facility was appropriate. The LIWA experience with JCAG clearly demonstrated the danger of data collection on United States persons which was not rigorously controlled and safeguarded. Accordingly, LTG Noonan's decision to terminate LIWA's support to Able Danger, and the destruction of data which would no longer be needed, was reasonable in the aftermath of JCAG and the requirements of DoD 5240.1-R.

Likewise, the destruction of unneeded data at Garland, which may have contained information on United States persons, complied with DoD 5240.1-R and was a sound management decision. Based on CAPT [redacted]'s testimony, the data at Garland consisted of large volumes of information obtained via searches of Web sites, but the data had not been subjected to any type of rigorous analysis. The Able Danger team retained any useful data and brought it back to USSOCOM headquarters where it could be used for follow-on projects.

D. Did DoD officials terminate the Able Danger project prematurely?

Standards

We found no regulatory standards that could reasonably be applied to the decision to terminate the Able Danger project. Rather, we reviewed the facts and circumstances surrounding the termination of Able Danger to determine whether there was any indication of an effort to undermine or suppress worthwhile intelligence gathering efforts.

Facts

In evaluating this issue, we drew on facts presented in previous sections of this report and reiterate the following relevant information concerning Able Danger.

The Able Danger project was created in October 1999 when GEN Shelton tasked USSOCOM to produce a campaign plan to deter the al Qaeda terrorist organization. In turn,

b(6)
b(7)(C)

GEN Schoomaker, then Commander, USSOCOM, assembled a team of military planner, operators, and analysts to develop the required plan. The evidence indicated that GEN Schoomaker initially anticipated that the Able Danger team would complete the campaign plan by October 1, 2000.

Dr. [redacted] testified that when she first met CAPT [redacted] in January 2000 at JWAC he was frustrated because he was unhappy with the products that were being produced and had a "drop dead date" of October 1, 2000. CAPT [redacted] testified that after LIWA was unable to support the Able Danger mission he entered into a contract with Raytheon Company for use of the Garland facility for 90 days which was subsequently extended by GEN Schoomaker for 30 days.

The evidence established that GEN Schoomaker was favorably impressed during the October 12, 2000, presentation at the Garland facility and directed that the campaign plan would be published by December 15, 2000. He further directed that the capabilities of the Garland facility would be brought to USSOCOM headquarters. Thereafter, the Able Danger team was ordered to work exclusively on preparing the campaign plan. On January 8, 2001, the campaign plan was presented to, and accepted by GEN Shelton. Accordingly, GEN Shelton's tasking was satisfied and the Able Danger mission was completed.

Discussion

We concluded the Able Danger mission was not prematurely or unwisely terminated. Further, there was no indication that the decision to terminate the Able Danger program was based on a desire to suppress intelligence gathering efforts. Rather, the termination decision must be understood in terms of the objective of Able Danger -- the development of a campaign plan; i.e., a strategy for using advanced analytical tools to target the al Qaeda infrastructure. Having achieved that objective, Able Danger was appropriately ended and its technology applied to follow-on intelligence operations at USSOCOM.

E. Did DoD officials execute the Able Danger mission in compliance with applicable intelligence oversight guidance?

Standards

The focus of intelligence oversight is to ensure that the collection, retention, and destruction of intelligence information concerning United States persons complies with the following standards.

Executive Order (E.O.) 12333, "U.S. Intelligence Activities," dated December 4, 1981

This order authorizes agencies within the intelligence community to collect information concerning, and conduct activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their

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agents. This includes information collected about United States persons or organizations reasonably believed to be engaged or about to engage, in international terrorist or international narcotics activities.

DoD 5240.1-R, "Procedures Governing the Activities of DoD Intelligence Components that Affect United States Persons," dated December 7, 1982

This regulation implemented E.O. 12333 in DoD. It allows information about United States persons to be retained temporarily, for a period not to exceed 90 days, solely for the purpose of determining whether that information may be of permanent value as defined in E.O. 12333. It requires that all personnel assigned to, or supervising, intelligence components must, at a minimum, be familiar with the general provisions and guidance on collection, retention, and dissemination of United States person information, employee conduct, and procedures for identifying, investigating, and reporting questionable activities.

Facts

In evaluating this issue, we reiterate evidence set forth above. Additionally, we determined that in order to overcome the issues regarding United States persons which arose during the JCAG demonstration and motivated LTG Noonan to terminate LIWA's support for the Able Danger mission, Terms of Reference (TOR) were drafted by CDR [redacted] who worked closely with Mr. Richard Shiffrin, DoD Deputy General Counsel, Intelligence, and members of Mr. Shiffrin's staff. The TOR set out the parameters on how the Able Danger team would conduct their mission, with specific attention paid to Intelligence Oversight as it related to searching the World Wide Web and retention of data related to United States persons. The TOR was signed by Col [redacted] and the USSOCOM Staff Judge Advocate on July 17, 2000. LIWA signed the TOR on September 26, 2000, but, as indicated previously, LIWA ceased support to Able Danger in April 2000.

Once the TOR was finalized, the OCWG implemented a process to ensure compliance with the procedures regarding United States persons. Members of the Able Danger team built a Microsoft Access data base application, which they called the Information Management System, to track search targets. This application was completed by mid-August. Shortly thereafter the team began operations.

The TOR described the data sources, methods, and process that would be used by the Able Danger team members. It also discussed retention of United States person data and the disposition of data upon completion of the Able Danger mission. Signed acknowledgment documents indicated that Able Danger team members were required to review the TOR prior to working on Able Danger. Witness testimony indicated personnel understood the TOR.

The TOR directed a Special Operations Judge Advocate be assigned to Able Danger as well as an Intelligence Oversight officer. Documents established that the Special Operations Judge Advocate conducted appropriate intelligence oversight training for the Able Danger members.

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Testimony and documents indicate that a legal review of the Able Danger project was conducted before work began at the Garland facility. The USSOCOM Inspector General conducted an intelligence oversight inspection in August 2000. In November 2000, Mr. Shiffrin inspected the Able Danger intelligence oversight program. Both inspections assessed the oversight program as "Excellent."

Discussion

We reviewed the TOR, which remains classified, and determined that it complied with E.O. 12333 and DoD 5240.1-R. Further, based upon our interviews and review of applicable data we determined that the Able Danger team members complied with the TOR. Accordingly, we determined that the DoD properly applied intelligence oversight to Able Danger.

Moreover, we found the intelligence oversight program established for Able Danger to be well planned. The program required and documented training, inspections, and reporting. Each person involved in the project was required to read and sign the "Able Danger Terms of Reference and Concept of Operations" as a condition to participate. Witnesses testified that the TOR did not prevent them from executing their mission, but in fact facilitated their efforts.

With regard to retention of data on United States persons, we determined that the TOR set out appropriate methods for retaining such data. Further, we determined that data was retained in compliance with the TOR. We also determined that data that was destroyed when the Able Danger mission departed the Garland facility was properly done so in accordance with the TOR.

F. Did DIA Officials, when cleaning out LTC Shaffer's civilian office, improperly destroy Able Danger documents that LTC Shaffer had accumulated there?

Standards

We found no regulatory standards that applied to possible destruction of Government documents that were not stored in a system of records, but were abandoned by the former occupant of a Government office, other than established procedures for the destruction of any documents that were classified. In this case, we sought to determine whether, in fact, LTC Shaffer left behind significant Able Danger documentation in his DIA work spaces when he vacated them in March 2004 and, if so, whether the disposition of that documentation evidenced impropriety.

Facts

LTC Shaffer testified he accumulated a significant amount of Able Danger related documents in his office at the Clarendon DIA facility. Regarding the volume of the documents he alleged he possessed, LTC Shaffer stated "[it] was probably about four boxes of Office Depot, the, the standard box size. That would include charts, background documents and other related material."

LTC Shaffer explained how he came to possess documents and charts related to Able Danger by asserting that he served as a "forward operating headquarters" or "repository." He provided, "During the, the time of the running of Able Danger . . . I functioned as the forward headquarters of the Able Danger task force." LTC Shaffer estimated that Col [redacted] and CAPT [redacted] provided 80 to 90 percent of all the Able Danger documents that he came to possess.

With regard to his duties related to Able Danger LTC Shaffer stated,

> I became the repository for whatever the Able Danger team, that meant Captain [redacted], that meant Colonel [redacted], who was the Chief, whatever they wanted to have, I became the repository for them in Clarendon. That way, they could just pop by Clarendon, coming off a plane from Tampa or Texas, come by the building, grab the stuff, go over, take the metro over to the Pentagon, brief and then bring it back. They had a secure holding area at the top secret level they could keep, keep all this secure. So that's why I had all these charts.

We interviewed both CAPT [redacted] and Col [redacted] regarding the assertion that LTC Shaffer stored documents for them in his office at Clarendon. Both denied they had left any documents with LTC Shaffer. Further, neither recalled ever having been to LTC Shaffer's office at Clarendon.[31] Both CAPT [redacted] and Col [redacted] testified that they were unaware of anyone associated with Able Danger leaving anything with, or picking anything up from, LTC Shaffer. CAPT [redacted] did, however, add, "I think he volunteered for that. He says, you know I'll store all this data here in Clarendon." With regard to LTC Shaffer's assertion that CAPT [redacted] had left charts with him, CAPT [redacted] testified, "That's false."

CAPT [redacted] did recall providing LTC Shaffer with the TOR, a document which set out standard operating instructions and applicable legal guidance, while LTC Shaffer was at the Garland facility. CAPT [redacted] estimated the TOR to have been 10 to 15 pages long.

After we informed LTC Shaffer that Col [redacted] and CAPT [redacted] both denied being at his office and leaving materials with him, LTC Shaffer stated,

> I can't attest to [redacted] ever being there. I don't know that for a fact. But I do know 100 percent, 110 percent, that [redacted] came and dropped off the documents at least on one occasion.

In April 2003 LTC Shaffer and CAPT [redacted] worked together to develop a briefing in order to reconstitute the tools that were at the Garland facility. When CAPT [redacted] was asked whether LTC Shaffer made Able Danger documents or charts available at that time, CAPT [redacted] responded,

[31] CAPT [redacted] testified that LTC Shaffer talked with him about being in LTC Shaffer's office. However, CAPT [redacted] told us, "He says I was [in his office] but I don't recall."

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> I don't think he had anything. He always referred to documents at a DIA site that he was trying to get a hold of and back-up documents that he had when we did briefs up in D.C., but I never recalled them generally. Nothing ever came to my desk.

LTC Shaffer provided us with specific details regarding a portion of the Able Danger documents he had in his possession that he alleged were classified "collateral top secret" and required special handling, which included keeping them in a safe and inventorying them annually. He estimated that he had stored in a safe "probably about six linear inches of [collateral] top secret documents." LTC Shaffer testified, "[then-] Lieutenant Colonel [redacted] was my, my primary deputy, principal deputy, who actually controlled these doc- these control documents."

COL [redacted] testified that while she had heard the term "collateral top secret" she did not know what it meant. Further, she testified she had never in her career inventoried any classified documents and had no knowledge of documents stored in a safe at the Clarendon DIA facility. CAPT [redacted] testified that he did not know the term "collateral top secret."

LTC Shaffer testified that though a portion of the documents in his possession were "collateral top secret" and, therefore, required being locked in a safe and periodically inventoried, when COL [redacted] was transferred to another position in DIA he took control of the documents and thereafter "kept it all in a briefcase." He stated he kept this briefcase and "all the different data . . . hidden under my desk on the, wherever I went, it was, it was physically under my possession wherever I went at that point in time." He added, "I did not have a safe after a certain point, so since we were authorized open storage, I just kept it with me."[32]

Regarding the Able Danger documents LTC Shaffer alleged he possessed, LTC Shaffer testified that after the September 11 attacks he had various members assigned to DIA review the documents. He added that he "talk[ed] to them about the fact that we identified Atta and some of the other terrorists before 9/11." He testified that COL [redacted]; Captain (CPT) [redacted] U.S. Army Reserve; Mr. [redacted] who was a Professional Staff Member, U.S. Senate Select Committee on Intelligence; and an individual we designated as "Witness 2"[33] reviewed the Able Danger documents that were in his possession.

COL [redacted] testified she never reviewed any Able Danger documents after September 11, 2001, that identified any of the terrorists prior to the attacks. She discussed that though LTC Shaffer had on occasion told her that he had identified some of the 9/11 terrorists prior to September 11, 2001, he never offered to show her any documents supporting his assertion. COL [redacted] added, "And Tony gets real hyper in his beliefs and talking. . . . How much of it was in his . . . I'm not even going to say in his mind . . . how much of it was actually factual, I'm not sure."

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[32] The inventory of personal belongings shipped to LTC Shaffer (discussed in the following section) listed a leather briefcase, but the individuals who took the inventory told us they found no Able Danger related documents in it.

[33] Witness 2's identity was shielded for operational security reasons.

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CPT [redacted] a friend of LTC Shaffer who had worked with LTC Shaffer while assigned to DIA, stated he did not recall reviewing any Able Danger documents. He testified, "I don't have any memory of that at all . . . I do not remember that." However, CPT [redacted] discussed a conversation LTC Shaffer had with him in 2005. CPT [redacted] testified,

> He told me that, you know, in passing, '[redacted] you know, I even -- you know, you were there. I showed you those Able Danger documents.' And I just kind of, you know, nodded my head . . . But I don't – I'll just go on the record right now. I don't ever remember -- I don't think that I was ever shown those documents.

CPT [redacted] also testified that he had no memory of LTC Shaffer telling him that prior to the 9/11 attacks he had identified Mohammed Atta. CPT [redacted] expressed certainty that he would have remembered being told such a fact. He testified, "Because I didn't fall off the turnip truck yesterday, and I understand the significance of that." CPT [redacted] added that not until "after this whole kind of Able Danger thing broke" had he heard LTC Shaffer mention Mohammed Atta.

Mr. [redacted] testified that he was an Air Force Reserve officer and had been on active duty assigned at DIA from October 2001 through October 2002. Mr. [redacted] testified that in 2002 LTC Shaffer showed him a document regarding a project that LTC Shaffer was attempting to organize out of an office at the Pentagon. He said that LTC Shaffer told him that the document was very sensitive and that he was showing it to Mr. [redacted] because he wanted Mr. [redacted] to join him on the project. Mr. [redacted] testified that LTC Shaffer told him, "Why don't you come also? I mean, we're going to go off of active duty. We can get jobs over there." Mr. [redacted] testified,

> I read it. I don't remember any of the details of it. All I remember is the gist of it was it was going to be some type of information gathering type of project based out of the Pentagon. And Tony said he had contact with the people that were trying to stand this thing up, get it moving. I don't know that he used the word 'stand up,' but trying to get it underway.

Mr. [redacted] denied that LTC Shaffer had ever shown him any charts. Further, he testified that LTC Shaffer never mentioned to him that he had previously worked on a project in which Mohammed Atta, or any of the other 9/11 terrorists, or any terrorist, had been identified. When we asked whether he was surprised that LTC Shaffer had not disclosed to him that he had identified Mohammed Atta and other 9/11 terrorists, Mr. [redacted] responded,

> But, I mean, right now it does surprise me. . . . That if he had known that why he wouldn't have come to this committee? I mean, he knew I worked on the committee since 2003. So yeah, I mean, in that sense that is surprising.

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Witness 2 denied seeing any Able Danger related documents in LTC Shaffer's office, and told us that there were no rolled up charts in LTC Shaffer's office as LTC Shaffer alleged.

LTC Shaffer testified that he met with staff members of the 9/11 Commission while deployed to Bagram Air Base in Afghanistan in October 2003. He stated that he returned from his deployment in December 2003 and went on leave. He returned to the Clarendon facility in January 2004. He testified,

> At that point in January of '04, is when I actually physically put all these documents together in one location preparing for my belief that the 9/11 Commission would want to have a look at them based on the fact that I did have, and, and again, I'll say this for the record . . . I had actual top secret documentation regarding the actual mission orders and focus of the operation.

LTC Shaffer stated, "The key stuff was in this briefcase." He added, "The briefcase was actually located right next to my desk in Clarendon. I had stuck it underneath right next to my feet, next to the boxes." LTC Shaffer also told us that he never reviewed the materials that he had collected in order to provide it to the 9/11 Commission. He stated, "I didn't feel it was my job to sort through and inventory just to turn it over to them."

As set forth in the following section, the DIA employees who cleaned out LTC Shaffer's office spaces inventoried a leather briefcase, but testified that they found no documentation pertaining to Able Danger.

Discussion

We determined that LTC Shaffer did not possess Able Danger related documents as he alleged. He testified that he possessed documents that were provided to him primarily by Col [redacted] and CAPT [redacted] both of whom denied providing LTC Shaffer any such documents. Further, each witness LTC Shaffer alleged he had shown the Able Danger documents denied seeing any such documents. Accordingly, we concluded DIA officials did not improperly destroy Able Danger mission related documents in LTC Shaffer's possession.

G. Did DIA officials improperly ship Government property and classified documents to LTC Shaffer's attorney?

Standards

The DoD 5200.1-R, "Information Security Program," dated January 1997

Chapter 6 , "Safeguarding," paragraph C6.1.1.1. states that components shall have a system of control measures that ensure that access to classified information is limited to authorized persons. Paragraph C6.2.1. states no person may have access to classified information unless that person has been determined to be trustworthy and access is essential to the accomplishment of a lawful and authorized Government purpose.

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Chapter 7, "Transmission and Transportation," paragraph C7.1.3.4. states that Secret information may be transmitted by U.S. Postal Service registered mail within and between the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. Paragraph C7.1.4.4. states that Confidential information may be transmitted by U.S. Postal Service first class mail between DoD Component locations

Paragraph C7.2.1.1. states when classified information is transmitted, it shall be enclosed in two opaque, sealed envelopes, wrappings, or containers, durable enough to properly protect the material from accidental exposure and facilitate detection of tampering.

DIA Regulation 50-2, "Information Security," dated July 15, 2003

Paragraph 7a states that individuals are responsible for protecting classified information in their possession or for which they have been given custodial authority.

DIA Regulation 12-30, "Mail and Distribution Management Program," dated October 27, 1995

Paragraph 10f provides direction for mailing/pouching classified material, following guidance contained in DoD 5200.1-R.

Facts

LTC Shaffer testified that seven boxes, which contained his personal property, property of others, and Government property, were mailed from DIA to his attorney's office. LTC Shaffer stated that on October 7, 2005, he opened one of the boxes in his attorney's office and observed an empty camera box and several documents relating to his employment that were addressed to him. He thereafter opened the remaining boxes at his residence and asserted the boxes contained a variety of items that did not belong to him.

LTC Shaffer also alleged he found six classified documents in the boxes that were sent to his attorney's office.[34] We reviewed the six documents (actually four documents totaling six pages) which included two documents that had "Confidential" classification markings on the top and bottom of each page (a 1992 TDY travel request and a 2002 document regarding an administrative matter related to LTC Shaffer); and two OERs that consisted of two pages each with no classification markings on the top and bottom, but did have classified "S/NF" (Secret/No Foreign) paragraph markings.

On December 16, 2005, LTC Shaffer delivered to this Office one box of items that he alleged were included in the shipment to his attorney, but were not items of his personal property. We inventoried the contents and itemized 61 items that included a Garmin Global

[34] LTC Shaffer stated he provided the classified documents to Representative Weldon's Chief of Staff who, in turn, forwarded them to Mr. [redacted] Counsel, House Armed Services Committee. Mr. [redacted] subsequently provided the documents to this Office.

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Positioning System (GPS) V Personal Navigator, a box for a Garmin GPS V Personal Navigator, one pair of stereo headphones, 25 felt tip pens ("Skillcraft"), 11 blank compact discs, various mementoes, and 24 pieces of unopened mail many of which were postmarked in 1998-1999 and addressed to unknown individuals. Other than some unclassified documents (aged, incomplete performance appraisals for DIA employees, travel vouchers, and Army regulations), none of the items were obviously Government property. However, it is reasonable to conclude that the 25 markers/pens and 11 compact disks were Government property, although not labeled as such.

We found that between the fall of 1999 and March 2004, LTC Shaffer was assigned to three different divisions (and three different office spaces) in the DIA facility located in Clarendon, VA. He was assigned to the Sub-Sahara Africa Division, located on the 13th floor, until April 21, 2003, when he transferred to "Focal Point and Cover Staff", a 24-hour watch section in the Clarendon Situation Room. On January 5, 2004, LTC Shaffer was assigned to the Asia Pacific Division, located on the third floor in the Clarendon facility.

LTC Shaffer went on temporary duty (TDY) to Afghanistan from March 9, 2004, to April 3, 2004 (a Saturday). Upon LTC Shaffer's return to the Clarendon facility on Monday, April 5, 2004, he was escorted by an unidentified Navy noncommissioned officer to the Personnel Security Division office, notified that his Sensitive Compartmented Information (SCI) access had been suspended, and was escorted out of the Clarendon facility. LTC Shaffer was thereafter prohibited from entering the Clarendon facility unescorted and did not enter the facility again until February 2006.

When LTC Shaffer was assigned to Focal Point and Cover Staff from the Sub-Sahara Africa Division in April 2003, he left approximately 8 to 10 boxes of personal and work related belongings in his Sub-Sahara Africa Division work cubicle on the 13th floor of the building. Mr. [redacted], Senior Intelligence Officer, Sub-Sahara Africa Division, testified that after LTC Shaffer was assigned to Focal Point and Cover Staff, he spoke with LTC Shaffer and also sent him several e-mail messages asking him to clean up his old cubicle and remove his belongings. Mr. [redacted] stated that new employees were arriving in the Sub-Sahara Africa Division who needed LTC Shaffer's former work space. Eventually, Mr. [redacted] requested that Ms. [redacted], Sub-Sahara Africa Division Administrative Officer, e-mail LTC Shaffer regarding his boxes. Mr. [redacted] further stated that sometime after January 2004, when LTC Shaffer did not respond to Ms. [redacted]'s e-mail messages, he directed the boxes be moved to LTC Shaffer's new location in the Asia Pacific Division on the third floor.[35]

Ms. [redacted] testified she tasked two of her subordinates to assist her move the boxes into LTC Shaffer's cubicle in the Asia Pacific Division. Ms. [redacted] also told us that some of LTC Shaffer's belongings were already in boxes and that some boxes were closed but not sealed, and other boxes were open. Ms [redacted] stated she and the other two employees boxed items that were not already packed. She stated approximately 6 to 8 boxes of LTC Shaffer's belongings were deposited in LTC Shaffer's cubicle in the Asia Pacific Division. Staff Sergeant [redacted], U.S. Air Force, and Mr. [redacted], the Sub-Sahara Africa Division employees who boxed and moved LTC Shaffer's articles, corroborated this sequence of events.

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[35] LTC Shaffer was TDY in Afghanistan from late July to early December 2003.

We found evidence that LTC Shaffer's belongings were next shipped from the Asia Pacific Division to DIA headquarters, Bolling Air Force Base, but shortly thereafter returned to the Clarendon facility -- this time positioned in the Middle East/North Africa Division on the 13th floor. Ms. [redacted] testified that approximately 2 to 3 weeks after LTC Shaffer's boxes were moved to the Asia Pacific Division, the same boxes were returned to the 13th floor, but that the returned boxes had LTC Shaffer's name lined through and Mr. [redacted]'s name printed on the boxes.[36] Based on that notation, Ms. [redacted] assumed that the boxes had been sent to Mr. [redacted] at the DIA headquarters, and then returned by Mr. [redacted] to the Clarendon facility. The boxes were then returned to the Asia Pacific Division.

CAPT [redacted], U.S. Navy, former Division Chief, Asia Pacific Division, confirmed that Mr. [redacted] had LTC Shaffer's office contents delivered to the Asia Pacific Division while LTC Shaffer was on TDY in Afghanistan during March 2004. Because CAPT [redacted] understood that LTC Shaffer would not be allowed back into the Clarendon facility on his return from Afghanistan, he initiated action to segregate any personal belongings in those contents and deliver them to LTC Shaffer. CAPT [redacted] testified he directed Mr. [redacted], Administrative Assistant, Asia Pacific Division, to go through the material in the boxes and separate the official Government documents from LTC Shaffer's personal belongings and arrange to return LTC Shaffer's personal belongings to him.

Mr. [redacted] testified that some time in March 2004, someone delivered approximately 12 boxes of LTC Shaffer's office contents to an area in the Asia Pacific Division where extra computer equipment was stored. Because the boxes were taking up space allocated for new personnel and cubicles, CAPT [redacted] told him to separate LTC Shaffer's personal belongings from the Government property and place Government documents, including classified material, in burn bags for destruction.

Mr. [redacted] told us he went through the boxes whenever he had a free moment, sometimes 15 minutes at a time, over the period of approximately 2 to 3 months. Mr. [redacted] told us he separated LTC Shaffer's boxes into two categories and put what appeared to be documents with classification markings and official documents into burn bags and what appeared to be LTC Shaffer's personal belongings into boxes for shipment. Mr. [redacted] also told us that the documents that appeared to be personal and had no classification markings were grouped with LTC Shaffer's belongings. Mr. [redacted] testified that he observed no documents that had "code words" or "collateral top secret" marked on them. Mr. [redacted] asserted that he did observe "Secret," "Secret/No Foreign," and "Confidential" documents in LTC Shaffer's office contents but never saw anything marked "Top Secret," "TS," or "Top Secret Sensitive Compartmented Information (TS SCI)." Mr. [redacted] told us he did not read the documents, but reviewed them for classification and if documents did not appear to be LTC Shaffer's personal property, they were put in the burn bag. In response to the alleged inclusion of classified performance appraisals, Mr. [redacted] testified he recalled seeing copies of LTC Shaffer's performance appraisals but did not see any classification markings on them so he retained them with the personal belongings.

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[36] Mr [redacted] was LTC Shaffer's supervisor when LTC Shaffer was assigned to the Sub-Sahara Africa Division. He had moved from the Clarendon facility to DIA Headquarters.

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Mr [redacted] further testified that he observed no ringed binders, charts, or maps in any of the materials he reviewed and no oversized pieces of paper that were laminated (e.g., charts) and no paper that was rolled up. Mr. [redacted] testified that for the most part, everything was in folders or piled in stacks. Mr. [redacted] further told us that he did observe various pieces of personal mail and testified that even though LTC Shaffer was not the addressee on the mail, he thought the mail belonged to LTC Shaffer or someone LTC Shaffer knew, and that was why he did not destroy it. Mr. [redacted] testified he did not recall seeing any document with a picture of Mohammed Atta in any of LTC Shaffer's belongings and that the only photos he observed were personal photos belonging to LTC Shaffer. He further testified that at no time did he observe any documents with the words Able Danger stamped or written on them.

In response to the allegation that a Government GPS unit was included in the shipment to LTC Shaffer's attorney, Mr. [redacted] testified he did not observe a GPS unit but recalled an empty cardboard box for a GPS. He told us that if there had been a GPS, he would have set it aside as Government property. Mr. [redacted] recalled that he found a laptop computer and small printer in LTC Shaffer's office contents and he, in fact, set those aside as Government property.

Mr. [redacted] told us that he placed LTC Shaffer's belongings inside of 8 to 10 boxes, taped them shut, marked them with LTC Shaffer's name, and moved them into a corner of the Asia Pacific Division conference room sometime in July 2004. Mr. [redacted] testified he called LTC Shaffer at his residence on three separate occasions and left messages in an attempt to have LTC Shaffer retrieve his belongings, but that LTC Shaffer never responded to his messages.[37]

The boxes remained in the conference room for approximately 13 months, until August 17, 2005, when Mr. [redacted] turned them over to two individuals from the Personnel Security Division at DIA. By e-mail to Ms. [redacted] and Mr. [redacted], Special Agents, Personnel Security Division, Mr. [redacted] summarized his efforts to segregate LTC Shaffer's personal belongings during the March to July 2004 time period, stating that the task took him about 15 work hours, during which he removed and destroyed all classified documents. Mr. [redacted] acknowledged that he did not make an inventory of the personal items he put aside for LTC Shaffer.

Ms. [redacted] and Mr. [redacted] told us that on August 17, 2005, they were directed by Mr. [redacted] Chief, Personnel Security Division, DIA, to take custody of the boxes containing LTC Shaffer's personal belongings, inventory the contents, and ensure the classified material had been removed. In separate interviews, Ms. [redacted] and Mr [redacted] stated they brought the boxes to the office of Mr. [redacted] Chief, Counter Intelligence and Special Investigations Unit, DIA, at the Clarendon facility.[38] They both testified that they received no specific tasking regarding Government material and when they observed items such as pens, blank compact disks, and headphones that could belong to the Government, they left them with LTC Shaffer's belongings. However, Ms. [redacted] and Mr. [redacted] emphasized that if they had

[37] LTC Shaffer recalled receiving telephone calls but stated it was not clear to him what DIA's expectation was with regard to him retrieving his personal property.

[38] Mr [redacted] was then on leave.

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observed anything that was clearly identifiable as Government property they would have inventoried it and removed it from the boxes of LTC Shaffer's belongings. Ms. [redacted] and Mr. [redacted] testified they took the task seriously and painstakingly conducted the inventory.

Ms. [redacted] and Mr. [redacted] told us that although Mr. [redacted] told them he checked all the documents in the boxes for classified information, they found seven classified documents in the boxes during their inventory and assumed Mr. [redacted] overlooked them. They retained those classified documents separately. Mr. [redacted] told us that they looked at the top and bottom of each document for classification markings, and that even if the documents were not marked on the top and bottom they looked for markings at each paragraph throughout the document. Ms. [redacted] and Mr. [redacted] testified that they recalled a box for a GPS unit that included accessories and software, but there was no GPS unit inside the box and there was nothing on the box indicating it belonged to the Government.

Ms. [redacted] and Mr. [redacted] testified that they did not see any charts or any documents with pictures on them, they did not observe any type of document or chart with Middle Eastern names on them, and they did not see any documents marked with the words "Able Danger."

Ms. [redacted] and Mr. [redacted] provided a detailing listing of the items that were contained in the seven boxes. That listing described the seven classified items and itemized other items with generic descriptions. No items were identified as Government property, although some could have been Government owned, such as "Flags--US and USMC," "CD Read/Write disks--unopened--10," "Office supplies--pens," "Rolodex," "Box of accessories for GPS device," and "Typewriter print disk, Elite font." Ms. [redacted] and Mr. [redacted] testified that when the inventory was completed, the classified documents were removed and the boxes were sealed with tape. They remained in Mr. [redacted] s office until they were transported to the mailroom on September 26, 2005.

In communications to us, LTC Shaffer represented that the GPS unit itself -- an item of Government property -- was in the GPS box included in the shipment to his attorney -- contrary to the assertion of DIA employees that only a box with GPS accessories was included in the shipment. As a result, we sought to resolve the disparity. We noted that the serial number on the box that LTC Shaffer provided to us from the shipment was 93048763. The serial number on the GPS unit that LTC Shaffer provided was different -- 93086668.

Mr. [redacted], Chief of Logistics, Defense HUMINT, DIA, conducted a records check and found no record of DIA having purchased a GPS unit that matched serial number 93048763, identified on the box shipped by DIA to LTC Shaffer. However, he did confirm that DIA had purchased the GPS unit with the serial number, 93086668, that LTC Shaffer provided.

Mr. [redacted], a contractor employee, worked in the Asia Pacific Division and participated in the TDY to Afghanistan in March 2004 in which LTC Shaffer was the team leader. Mr. [redacted] testified that he was issued two GPS units from DIA and that he brought them to Afghanistan. Mr. [redacted] testified that along with several other members of the team, he returned to the United States, but LTC Shaffer remained in Afghanistan for several more days. Mr. [redacted] testified he personally handed the two GPS units to LTC Shaffer prior to leaving

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Afghanistan on March 26, 2004. Mr. [redacted] acknowledged he did not have LTC Shaffer sign a receipt for the GPS units. Mr. [redacted] testified that he had no further knowledge regarding the disposition of the two GPS units and had not seen LTC Shaffer since he departed Afghanistan on March 26, 2004.

Mr. [redacted] provided a DD Form 2062, Hand Receipt, dated March 3, 2004, that confirmed that two GPS units (serial numbers 93086541 and 93086668) were issued to Mr. [redacted] on March 3, 2004. Mr. [redacted] further testified that DIA HUMINT supply records indicated that the GPS unit with serial number 93086541 was transferred to a DIA satellite office overseas, and that there was no further record for the GPS unit with serial number 93086668 (the one that LTC Shaffer alleged was shipped to him with his personal belongings).

LTC Shaffer did not recall receiving two GPS units from Mr. [redacted], but acknowledged that he received other equipment from him before departing Afghanistan. LTC Shaffer suggested that one of the GPS units (i.e., number 93086668) may have been left behind in his office at Clarendon and never brought to Afghanistan. He told us that the team did not take all the equipment they had been issued and that the GPS unit he allegedly found in his shipment could have been left behind.

Discussion

While we viewed DIA's handling of LTC Shaffer's office contents and personal belongings as lacking in due care, we found insufficient basis to conclude that the shipment to his attorney contained Government property of any significance or any classified documents.

With respect to DIA's handling of the matter, we noted that LTC Shaffer's office contents were first collected and boxed in April 2003, when he moved from the Sub-Sahara Africa Division to Focal Point and Cover Staff. Although LTC Shaffer remained employed in the Clarendon facility, no effective action was taken to have him review and properly dispose of the material. Nine months later, LTC Shaffer's office contents, which contained some classified material, were moved to the Asia Pacific Division (3rd floor), then shipped to DIA headquarters at Bolling Air Force Base, returned to the Clarendon Building (13th floor), and moved to the 3rd floor (Asia Pacific Division) where they were finally segregated into personal and Government property. Items considered personal were forwarded to the Personnel Security Division for inventory and shipment to LTC Shaffer. The simple task of gathering, inventorying, and disposing of contents of a single office cubicle went on for over 2 years. We found no reasonable explanation for the disorganized manner in which DIA officials carried out this basic task.

That observation notwithstanding, we concluded that DIA ultimately took effective action to dispose of LTC Shaffer's belongings. Special agents from the Personnel Security Division conducted an inventory of the boxed contents, removed classified material, and shipped the boxes to LTC Shaffer's attorney. While we question the inclusion of some of the material in that shipment (unclassified Government forms and vouchers, pens, and compact disks that were of the type commonly purchased for Government use), we consider the value and significance of those items minimal and further action unwarranted.

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In that regard, the preponderance of evidence leads to the conclusion that DIA did not include a GPS unit in the shipment as LTC Shaffer alleged. Rather, we concluded that LTC Shaffer was provided the GPS unit (serial number 93086668) by Mr. [redacted] while TDY in Afghanistan and carried that unit with him when he returned to the United States. Because LTC Shaffer was not allowed to enter the Clarendon facility when he returned, it could not have become part of the inventory that had been held in boxes at the Clarendon facility since April 2003. We considered Mr. [redacted]'s testimony credible and supported by the hand receipt that he signed. Further, we considered it highly unlikely that the GPS unit (serial number 93086668) was returned to DIA from Afghanistan by Mr. [redacted] (or someone else) and somehow placed in a box containing LTC Shaffer's office contents.

Regarding LTC Shaffer's assertion that he was sent classified materials by DIA, we concluded that no such items were sent to him. Ms. [redacted] and Mr. [redacted] testified they reviewed every document in his belongings and removed any classified documents. They told us that they looked for classification markings at the top and bottom of each document as well as every paragraph. Accordingly, we concluded, by a preponderance of the evidence, that the classified documents LTC Shaffer indicated were mailed to him by DIA officials were likely to have already been in his possession separate from the boxes mailed by DIA.

H. Did DIA officials take action to suspend LTC Shaffer's access to classified information and revoke his security clearance in reprisal for his communications to Members of Congress or the 9/11 Commission regarding Able Danger?

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Pages 63 through 88 are being withheld in their entirety in accordance with the FOIA under exemptions

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[redacted]

VI. CONCLUSIONS

A. The anti-terrorist program, Able Danger, did not identify Mohammed Atta or any of the other 9/11 terrorists before the 9/11 attack.

B. Able Danger members were not prohibited from sharing intelligence information with law enforcement authorities or other agencies that could have acted on that information. In fact, Able Danger produced no actionable intelligence information.

C. The destruction of Able Danger documentation at LIWA and Garland was appropriate and complied with applicable DoD regulations.

D. The Able Danger program was not terminated prematurely. It concluded after it had achieved its objective and its work products were used in follow-on intelligence gathering efforts at USSOCOM.

[redacted]

E. DoD officials executed the Able Danger program in compliance with applicable intelligence oversight guidance.

F. DIA officials did not improperly destroy Able Danger documentation when cleaning out LTC Shaffer's office spaces. We concluded that LTC Shaffer did not serve as a repository for Able Danger documentation as he alleged.

G. DIA officials included some Government property in the personal belongings that were shipped to LTC Shaffer after they were removed from his office spaces. However, the Government property was of minimal value (pens, aged Government documents, and computer disks). DIA officials did not improperly include classified documents or the Government GPS in that shipment.

H. DIA officials did not suspend LTC Shaffer's access to classified information or revoke his security clearance in reprisal for his communications regarding Able Danger. Rather, the adverse actions taken with respect to LTC Shaffer's access and security clearance followed established process and were justified apart from his protected communications.

I. DIA officials did not issue LTC Shaffer an unfavorable OER for his protected communications to the 9/11 Commission. The OER would have been issued absent those protected communications.

J. LTC Shaffer's OER did not properly reflect non-rated time pursuant to applicable Army regulations and he could have been issued an optional 60-day OER for service in Afghanistan. By separate correspondence we advised LTC Shaffer of his options for correcting his military record and offered our assistance if he chooses to do so.

VII. RECOMMENDATIONS

We recommend that the Director, DIA, review procedures concerning disposition of personal belongings when abandoned by DIA employees and procedures for rendering military performance reports to ensure that Service requirements are met.