

HOUSE ARMED SERVICES COMMITTEE: SUBCOMMITTEE ON STRATEGIC FORCES AND
SUBCOMMITTEE ON TERRORISM, UNCONVENTIONAL THREATS AND CAPABILITIES HOLD A JOINT
HEARING ON THE ABLE DANGER PROGRAM

FEBRUARY 15, 2006

SPEAKERS: STRATEGIC FORCES SUBCOMMITTEE U.S. REPRESENTATIVE TERRY EVERETT (R-AL)
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WITNESSES: STEPHEN CAMBONE, DEFENSE UNDERSECRETARY FOR INTELLIGENCE STEPHEN
CAMBONE

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CHRISTOPHER CHOPE, FORMERLY OF U.S. SOCOM CENTER FOR SPECIAL OPERATIONS

[*] **SAXTON:** The Subcommittee on Unconventional Threats and Capabilities meets
this afternoon in joint session with our colleagues from the Subcommittee on

Strategic Forces, to explore the U.S. Special Operations Command project known as Able Danger.

This is an oversight hearing conducted by the two subcommittees of jurisdiction with the goal of determining whether Able Danger represents a missed opportunity to avert the tragedy of September 11. Our purpose is to find out what happened and let members draw their own conclusions from the testimony presented.

The Able Danger story is complex. No single individual has first hand knowledge of all the relevant events. The subcommittee is guided by our friend and colleague, Curt Weldon, who has devoted much study to the issue, have invited a wide range of witnesses to testify in both open and closed session. Each has a piece of the narrative to relate.

As in any complex mosaic, no one had the benefit of the whole picture. I caution the witnesses to tell the committees what they have first hand knowledge of, and please don't speculate about events of which they have no direct evidence. Even though we have assembled many key witnesses, some few have left government service and have declined to appear for personal reasons. We reached out to every relevant witness made know to us, so that we could hear all of the evidence. We are, after all, the primary committee of jurisdiction for this program and are ultimately responsible for its oversight. Members must decide for themselves what to believe from the testimony presented today. There will be some inconsistencies. Having reviewed the totality of the evidence, I do not believe that Able Danger represents a major blunder by SOCOM, the Army or any presidential administration. Rather, I think it is yet another example of the many pointed out by the 9/11 Commission and the federal government's inability to integrate intelligence information effectively and take appropriate action.

It is conceivable that Able Danger, if fully and aggressively pursued and vigorously acted upon, could have provided key intelligence that may have averted 9/11. It's easy to say that today. With the benefit of clear hindsight we can and have said the same thing about other missed opportunities. The 9/11 Commission report lists many across the federal government.

Put in proper perspective, Able Danger, despite its promise, was a new, untested program just beginning to forge a niche in the intelligence community. At the time the alleged chart with Mohammed Atta was produced, no Able Danger product was used for operational purposes.

Unfortunately, it took the tragedy of 9/11 to drive home our inability to share information among federal agencies. To our credit, we have acted to correct these deficiencies by enacting the Intelligence Reform Act, creating a Director of National Intelligence and establishing a cross-cutting National Counter-Terrorism Center.

Further, the Able Danger project started by SOCOM in 1999 was brought to the headquarters in Tampa and continues to this day, under a different name, thanks to the farsighted leadership of General Pete Schoomaker. Far from being a sad story, I think a critical examination of the facts show that the federal government has made much progress, and that SOCOM in particular was astute enough to press ahead, even before 9/11/.

I would now like to turn to my co-chair, the chairman of the Strategic Subcommittee, Terry Everett of Alabama, for his opening statements.

EVERETT: Thank you, Chairman Saxton. The Strategic Forces Subcommittee is pleased to join the Terrorism Subcommittee in conducting today's joint hearing on Able Danger.

As a member of both the House Armed Services and the Intelligence committees, I am keenly interested in data mining and its importance to our intelligence community in conducting the war on terrorism.

At the offset, I believe it's important to highlight the key objectives of this hearing: to better understand the Joint Chiefs' tasking of Special Operations Command in late 1999, to conduct an information operation campaign against al Qaeda; the tools used by Able Danger team to map out the al Qaeda network and how this information was shared.

I've heard numerous reports that Mohammed Atta's name was known before 9/11, but I have not heard a definitive answer as to what significance his name and photo might have had in warning the United States of an impending attack. Even if Mohammed Atta's name did show up in the Able Danger project, what was the significance of this information to the intelligence communities? And I hope to learn more on this today.

I also note that there's an ongoing Department of Defense Inspector General investigation associated with certain aspects of Able Danger. I know that we will be careful to stay clear of matters that are subject to this investigation, as well as ensuring that we avoid a discussion of classified material while in open session.

To that extent, I would note that committee staffers who have looked at this a number of months now, from time to time, will probably be advising me and the chairman and our ranking members on certain aspects of SESTA (ph) material that might cross over into the classified spectrum.

I also want to commend my colleague Curt Weldon for his interest and hard work in this area. He's certainly had the lead for some time in examining Able Danger. I look forward to this informative hearing.

Thank you, Mr. Chairman.

SAXTON: I will turn now to the ranking member of the terrorism subcommittee, Mr. Meehan.

MEEHAN: Thank you, Mr. Chairman, and thank you for your leadership in holding today's hearing.

This is a unique opportunity to reexamine our nation's pre-9/11 security posture and revisit the finding and recommendations to the bipartisan 9/11 Commission. Today, we'll receive testimony, as has been mentioned, about a specific Department of Defense initiative called Able Danger -- one of many pre-9/11 efforts that attempted to assess the existence and then growing threat of terrorism.

Some of these efforts were small or short in duration. Arguably, they were disjointed, or perhaps uncoordinated. Still, they existed. And Able Danger is but one example of our efforts.

By many accounts, Able Danger represented, at the time, the most innovative and comprehensive analytical approach to the problem. The effort was an attempt to

improve our nation's awareness and understanding of known terrorists, their associates and any interconnecting relationships or networks. It has since received considerable attention.

Without question, those involved in Able Danger and any other similar efforts are to be commended for their service. On this point there should be no debate. Members of the 9/11 Commission are also to be commended for their distinguished efforts. Collectively, this bipartisan group has led our nation past the 9/11 tragedy in an effort to heal and correct and move forward.

The commission identified, correctly, a number of deficiencies in our overall national security posture before 9/11. These deficiencies included a lack of necessary security at key transportation nodes, a lack of imagination, a lack of adequate information sharing among federal agencies, a lack of proper coordination both here at home and diplomatically abroad.

I have pushed for adoption and implementation of the 9/11 Commission recommendations and believe that this Congress must similarly address the more recent recommendations of the 9/11 Discourse Project. I remain interested in seeing them through and improving upon them, if necessary.

I look forward to today's testimony, which I view as another opportunity to improve upon our ability to fight the global war on terror, or the long war in the days and months ahead. Overall, I hope that we can remember that we all share a common ground and a common interest in our desire to prevent future terrorist attacks upon American soil. I implore everyone to remember that this is our most responsibility.

Thank you Mr. Chairman.

SAXTON: I'd now like to recognize the ranking member of the Strategic Forces Subcommittee, Mr. Reyes.

REYES: Thank you. And I want to thank both of you chairmen, Mr. Everett and Mr. Saxton, for holding this joint hearing today of the Strategic Forces and the Terrorism and Unconventional Threats subcommittees.

This hearing, as my colleague has said, provides the subcommittees a unique opportunity to explore pre-9/11 intelligence gathering and the operational planning against al Qaeda by focusing on the activities of the Able Danger project. U.S. Special Operations Command created Able Danger in late fall of 1999 in response to orders from the chairman of the Joint Chiefs of Staff, to develop a campaign plan to counter transnational terrorism.

Able Danger attempted to map the al Qaeda network as a way of preparing the groundwork for operational planning against the terrorists. The mapping was performed through sophisticated data analysis techniques, such as link analysis and data mining.

We are here today because individuals associated with Able Danger have raised issues about the restrictions placed on their efforts to map the al Qaeda network in the pre-9/11 era. Among the issues that we will discuss today is whether restrictions on collection of information on U.S. persons hindered the creation and use of data based on these potential terrorists.

We will also hear testimony on the claim that Able Danger uncovered information about Mohammed Atta, a picture and a potential relationship to the Brooklyn cell

that carried out the first World Trade Center attack, which was in early 2000, prior to Atta's arrival in the United States in June of 2000.

Finally, we will discuss the question of whether Able Danger could have developed information about the 9/11 plot prior to the attack, if the project had not been ended in late 2000.

As a member of the House Permanent Select Committee on Intelligence, I am acutely interested in assuring that our nation's intelligence professionals are able to gather and disseminate information rapidly to effectively perform their missions. Hopefully, the changes enacted by Congress through the Intelligence Reform Act of 2004 have helped ensure that the United States does not suffer future intelligence failures as a result of restricting information sharing. But I will be listening carefully today to identify any additional structural changes that should be made.

On the other hand, I want to remind us all that our intelligence community is helping to protect a free society that safeguards our civil liberties. I am hopeful that the testimony today can help us to better understand how to improve intelligence gathering, the analysis and dissemination within the bounds of our Constitution and our Bill of Rights.

With that, Mr. Chairman, I yield back my time.

SAXTON: Thank you very much, Mr. Reyes.

After consultation with the minority, I now ask unanimous consent that any member of the House Armed Services Committee be allowed to participate in today's joint Terrorism and Strategic Subcommittee hearing, and be authorized to question the witnesses.

Hearing no objection, so ordered.

Given the interest in the second -- given the interest in the hearing today and the complexity of the issues to be addressed, and after consultation with Mr. Reyes and Mr. Meehan, I've asked further unanimous consent that each member of the committee be allowed to examine the witnesses for a period of 10 minutes. This replaces the five minute rule.

Hearing no objection, so ordered.

And I turn now to Mr. Everett.

EVERETT: Thank you, Mr. Saxton. I appreciate your work on this committee, and I listened carefully to both your opening statement and that of Mr. Meehan.

We're going to back up for a moment. The chairman has advised me there's something else he'd like to do at this point.

SAXTON: Let me introduce our first panel of witnesses for a motion for the open portion of the hearing.

Dr. Stephen Cambone, Undersecretary of Defense for Intelligence; Captain Hal Dronberger, formerly of the Joint Staff; Mr. Tom Gandy with the U.S. Army Intelligence; and Commander Christopher Chope, formerly of U.S. SOCOM.

Mr. Secretary, do you want to have an opening statement at this point?

CAMBONE: Sir, I have one, but I'm happy to follow Mr. Everett, or any other member of the committee who might want to open with...

SAXTON: Why don't you go ahead and proceed with your statement.

CAMBONE: All right, sir. Thank you.

You've already done me the kindness of introducing my colleagues here. And they are here as people who joined together to conduct a review that the department made on Able Danger.

You invited us here to talk about the planning activity known as Able Danger. The review the department did came about as a result of a telephone call from Congressman Weldon expressing his concern about Able Danger. And as a result of that conversation, I did initiate within the department a review of what we did or did not know about Able Danger.

And we felt an obligation to respond to Congressman Weldon and his concerns. We have an obligation to the victims and the families of 9/11, to those who were victims in the Cole bombing and their families, the East Africa bombings, Khobar, and all of those who are currently engaged in the war on terror, to be certain that we understood what happened with respect to 9/11 and to all the other terrorist attacks.

And so, these people undertook a fairly lengthy review. The review involved more than 90 DOD contract personnel, who spent an estimated 6,500 man hours conducting document and data searches. They interviewed over 50 individuals, interacted with members of this committee and other committees, as well as staffs.

The review was conducted department-wide with the full cooperation of all the relevant DOD organizations, as well as two contractor firms -- one called Orion, which provided support to the Army's Land Information Warfare Activity, or LIWA, and a portion of Raytheon, which supported U.S. SOCOM activity from a facility in Garland, Texas.

The review team was comprised of individuals from my office and the gentlemen who are sitting here at the desk as the lead agents of that effort. None of the people involved in the review here at the table had any first hand knowledge of Able Danger.

Bottom lines up front. The review did not uncover a chart or charts with information on 9/11 hijacker Mohammed Atta that predated the 9/11 attack, nor did the review discover any data -- hard copy or soft -- that provided information on Atta -- either his name or his picture or both -- prior to the 9/11 attacks. That said, we do not have any evidence to tell you definitively whether such a chart existed or not.

The review did not find that the department deliberately failed to share Able Danger information with the FBI. And the review did not find that the Able Danger information was inappropriately destroyed. Rather, the destruction of the Able Danger information, such as was done, was done in accordance with regulation and procedure.

But what was Able Danger? I think it's important that we take a moment on that subject.

In late December of '98, as Mr. Reyes said, the chairman of the Joint Chiefs identified a need to develop asymmetric capabilities to deter transnational terrorist organizations. He believed that a comprehensive DOD strategy and supporting campaign plan were needed to leverage DOD capabilities and enhance interagency efforts against terrorism.

By October of '99, U.S. Special Operations Command was formally tasked by the Joint Staff to develop such a campaign plan, and Able Danger was the unclassified name for that project.

And it's important here to distinguish between an effort to put together the elements of a campaign plan and an operations plan. They're not the same thing.

An operations plan would be that which an active unit would use for the purposes of engaging the adversary. The campaign plan is the guidance, the direction, the intent of the commander to go about one or more operations as part of an overall campaign. So, Able Danger was an effort to put together a campaign plan.

The initial focus of the project was the identification and exploitation of vulnerabilities associated with al Qaeda's command and control infrastructure and leadership and supporting organizations. And so, U.S. Special Operations Command explored the use of analytic tools and methodologies available in that timeframe, 1999 to 2000, that could assist it -- U.S. Special Operations Command -- in identifying linkages and patterns in large volumes of data, and reviewing those links and patterns against previous, known activities for indications and warning of possible future activity.

A number of organizations were approached for the purposes of supporting this effort. The Joint Warfare Analysis Center, or JWAC, which is still in operation today down at Dahlgren, Virginia, was approached. And we are told that the tools that were available to JWAC would not meet U.S. SOCOM's needs, and so, U.S. SOCOM moved on to find another supporting organization.

The Army's Land Information Warfare Activity, or LIWA, at Fort Belvoir, Virginia, we are told had the capability desired by U.S. Special Operations Command, and was approached for its support in the late '99 and early 2000 timeframe.

It was during that time that a company named Orion provided support to LIWA. Orion, at about this time, produced pattern analysis and cluster analysis charts in support of LIWA. We were told that Orion responded to specific requirements from LIWA, and that Orion employees were not "read onto," that is, given access to the purposes of or much of the other information in the Able Danger area of activity.

We're also told that LIWA supported U.S. SOCOM and Able Danger with analytic products for the period of roughly January through March of 2000. And later we'll discuss the reasons why the Army no longer continue to work with LIWA support and moved to another facility and another company, and that is the Raytheon company in Garland, Texas.

But for the purposes of your hearing, Mr. Chairman, it was during the period of LIWA's support to SOCOM that we understand the chart that might have had Atta's name or his picture might have been produced.

So, now recall, the purpose of Able Danger was to develop a campaign plan. By November of 2000, the Garland effort was terminated -- that is, the activity with Raytheon -- and resources were shifted to the development of the actual draft of the campaign plan. That is, for a period of about five months or so, continuous effort was made to develop the tools.

But by the time we come to the end of 2000, we need the plan. And so, SOCOM decides that it's going to put its resources against developing the plan, terminate the activity at Garland, Texas, and begins to draft the plan. That plan, in the end, was rolled into a larger activity within the Joint Staff in the early 2001 timeframe, and that larger plan has within it components that are very much connected to the heritage of the Able Danger activity.

So, a handful of questions.

Did the department inappropriately destroy Able Danger-generated information?

We are told it was the LIWA intelligence oversight officer who determined, during the course of a January through March timeframe, that LIWA support to SOCOM, and that the data it had compiled, was not in compliance with DOD intelligence oversight policies, specifically with regard to retention of U.S. persons information. Additionally, the required Terms of Reference -- or TOR, as we call them -- authorizing LIWA support to U.S. SOCOM was not in place in the early 2000 timeframe.

LIWA had to develop procedures to deal with the U.S. persons information issue, as well as put together a TOR. Those two -- the document, the TOR, which would have provided for its authorization to support U.S. SOCOM, was not done until well into the summer months.

As best we can ascertain, U.S. SOCOM had Raytheon, at the end of its effort in November of 2000, take most of the data that had been generated at Raytheon, and take it out of its system, essentially to purge it. A small percentage of information, roughly about one percent of that developed at Garland, was in turn transferred over to U.S. Special Operations Command.

So, where we are by the end of the year 2000 is that, information that had been generated at LIWA runs up against the concern about U.S. persons information being stored improperly, as well as having the authority to do the operation for the Army.

In terms of dealing with the U.S. persons data, again, I'm told that it was intermingled with the rest of the data in LIWA's files, and very difficult to pull apart. So, when the information in LIWA's files are destroyed on U.S. persons, so, too, is the rest of the related information.

Was there any information developed at LIWA, or elsewhere, that produce unique information on Mohammed Atta prior to 9/11?

Of the approximately 50 persons interviewed by the team, five people recalled a chart containing the picture and/or name of Atta. Orion produced link charts -- and that was told by those people to those here at the table, right -- Orion produced link charts derived solely from open source information, and Orion's charts included photographs of terrorists. We were told that LIWA, itself, did not produce the photographs that were placed on those charts.

Three Orion personnel, knowledgeable of Orion products provided to LIWA, have told us that they were certain that the charts they provided to LIWA did not contain a picture or a reference to Atta or any of his aliases.

In addition, these personnel told us that an al Qaeda chart was provided to LIWA, but only as an example of the capability that Orion could bring to the project. The chart was originally prepared for use in a training course on counterterrorism analysis.

We were told that Orion provided the chart on al Qaeda on October 21st of '99, without any supporting data; that is, additional analysis would have been required to validate the individuals and associations depicted on the chart.

The review team could not identify the precise data sets that were used for data searches and nodal analysis during the time of Able Danger. That is to say, we didn't discover the chart, nor have we discovered the data sets.

We attempted to see if we could not recreate a chart with Atta's name or picture on a chart using contemporary tools and contemporary databases. And toward that end, the Army's G-2 -- its intelligence organization in the staff -- directed INSCOM -- one of the organizations within the Army -- to conduct searches against open source information with emphasis on the November '99 to May 2000 timeframe; that is, the timeframe, bracketing the timeframe, at which it is thought a chart with Atta's name and/or picture might have been produced.

Those searches were conducted on the 20th and 21st of August 2005 by the Intelligence Information Services offices at INSCOM, and by the National Ground Intelligence Center. A large volume of data was searched by multiple search engines running against 14 government and commercial data stores. We did not in that effort discover information, that is to say, the name with the picture of Mohammed Atta that would have come up in the way it has been described.

U.S. SOCOM also conducted searches against an extensive repository of information, including what information from Able Danger had been previously transferred to U.S. SOCOM's Garland facility, and they didn't discover, again, information of the kind in question.

We then asked Orion, the company which produced open source analysis support to LIWA, to conduct a search of its files. Orion reported that its search did not uncover a chart with information on Atta or any data that might have produced it.

However, we did discover a chart during our recent data searches that was dated, as of May 1999, and produced by Orion, that was similar to that described by Captain Scott Philpot. It is a fact that that chart bears the photos and names of Mohammed Atef and Mohammed Ajaj, but not Mohammed Atta.

That is a fact. It is not dispositive, merely a fact, that that is what the chart provided.

At least one of the individuals will tell us that he saw a photo of Atta on the chart for Able Danger in early 2000, described it as grainy, and not the one used in the famous Florida drivers license that was flashed in all the newspapers after 9/11.

The review team attempted to track down the existence of such another photo. Because Orion produced the charts with the photos, the teams interviewed the

individual who was the chief executive officer of Orion at the time Able Danger, and he told us that Orion did not purchase such a photo. He said that the only photos of Atta in Orion's possession were obtained after 9/11.

So, did the department then fail to share Able Danger-related information with the FBI?

It has been said that during the Able Danger period three meetings with an FBI agent had been arranged, or were in the process of being arranged, in September of 2000, for the purposes of sharing Able Danger information, and then cancelled by SOCOM officials out of misplaced concern over intelligence sharing protocols.

The FBI agent said to be involved did not corroborate those claims to our review team. And in response to questions posed during the Senate Judiciary Committee's September 2005 hearing, the Department of Justice denied such claims in a letter to the Judiciary Committee.

We found no reason to believe that U.S. SOCOM leadership, or anyone from the DOD legal community, prohibited or prevented the sharing of Able Danger information with other federal agencies.

U.S. SOCOM, in fact, set up a classified chat room to further interagency coordination and break down existing stovepipes. It was designed so that any agency could enter anonymously to discuss issues without having to lay out any internal information. We were told that the chat room was not actively used.

U.S. SOCOM leadership at the time of Able Danger have said that they were aware of the legal and regulatory guidelines that govern intelligence gathering and dissemination, and these guidelines would not have prohibited the exchange of information on suspected terrorists, nor the retention of U.S. persons data that met appropriate criteria.

In fact, Mr. Chairman, it turns out that during the period when operations were taking place in Garland -- this is later in 2000 -- information on U.S. persons was, in fact, developed. And they had in place the proper terms of reference and guidelines and procedures. Steps were taken to assure the retention of that data on U.S. persons.

And, in fact, when the data was transferred to Garland to U.S. SOCOM, some or all of the information that had been gathered on U.S. persons at Garland was, in fact, transferred to U.S. SOCOM. So, we knew how to deal, my point is, with U.S. persons data.

The department has the authority to deal with U.S. persons data, and I will not give you all the citations. But, again, attorneys from the office of the DOD general counsel, the Joint Staff, the Army and U.S. SOCOM all were involved in providing legal advice and guidance during all the stages of Able Danger.

Now, another question that has been raised is, was the department responsive to 9/11 Commission's request for information?

One of the individuals closely involved with the Able Danger program, discussed Able Danger with several 9/11 Commission staffers during an October 2000 commission staff trip to Afghanistan. That discussion resulted in two subsequent commission requests for specific Able Danger documentation in November of 2003.

The department conducted document searches and provided a number of documents to the commission in response to these requests between December of '03, and February of '04. The documents provided to the commission included several briefings, which contained nodal analysis charts or diagrams. None of those charts contained references to Mohammed Atta or any of the 9/11 hijackers.

In July of 2004, as the commission was nearing its completion, another individual came forward within the department. He said that he had seen, early in 2000, an Able Danger-produced chart that depicted suspect al Qaeda networks and that identified Mohammed Atta. And this person came to my staff. I was responsible for supporting the 9/11 Commission's work within the department.

This person asked to meet with the 9/11 Commission staff to share that information, and that meeting was subsequently arranged by the department. The department did respond to all commission requests for information. No DOD documentation on Able Danger, responsive to requests, was at any time withheld from the commission.

It is true that in the course of this more recent review, we have indeed unearthed additional documents related to Able Danger. These documents were found, I must say, with some considerable effort, only because they were filed and misfiled and in a place where they weren't easily gotten to, not because they were being hidden.

And some of these documents would have been responsive -- may have been responsive to the commission's information requests. And they were generally consistent with DOD documents already provided to the commission, however. And none of these documents added information substantively different than that provided to the commission.

So, Mr. Chairman, with your patience, I'll summarize.

The department undertook its recent review of Able Danger in good faith, and with due diligence. No chart or charts with Mohammed Atta's name or photo have been found.

No data sets that contain such information have been found -- that is to say, dating back to the period in interest -- nor were we able to create such data sets when we went through the search in the 2005 timeframe.

It is true that material associated with Able Danger was purged from various systems. But in each case, we believe that it was done consistent with standard policies.

The FBI has denied that meetings were scheduled, or in the process of being scheduled, to pass data to it from Able Danger.

And DOD was responsive to the 9/11 Commission's information requests.

We have briefed members of this committee previously on the review. We have also briefed the staffs of the HPSCI, the HAC-D, the SSCI and the Senate Judiciary Committee, as well.

You, here on this committee, or any of the other committees, are welcome to any documents that we have on the subject that are not currently restricted by any ongoing legal proceedings.

The individuals here with me today are prepared to answer your questions on what they discovered in the course of the review. It's important that I point out and remind, Mr. Chairman, as you have, that the DOD Inspector General has an ongoing formal investigation into Able Danger. And he is also investigating the circumstances surrounding the case of one of the individuals involved with Able Danger.

The IG's office -- the DOD IG's office -- has informed me that its investigation on both subjects is expected to be completed in May of 2006. Should any new information come to light, we will share this with you and any of the other committees.

Several members of this committee have visited one of the centers, or more, that engaged in the kind of activity that was conducted by the people engaged in Able Danger. It's an impressive capability, as Mr. Reyes has said. And to those members who have not yet had the opportunity to visit either center, I recommend a visit in the near future.

And I would be remiss in closing if I did not point out that the early days of these efforts would not have born the fruit that they have without the support that Congressman Weldon and this committee have given to those efforts. And for that, we're appreciative. Mr. Chairman, we stand ready to answer what questions we can.

SAXTON: Thank you very much, Mr. Secretary. I understand that your colleagues at the table are there for the purposes of answering questions.

CAMBONE: Yes, sir.

SAXTON: And they do not have opening statements?

CAMBONE: They do not.

UNKNOWN: Mr. Chairman? Mr. Chairman, I have a question.

SAXTON: Ma'am, we're going to go in regular order here. We'll get...

UNKNOWN: I understand that. But my question is a parliamentary inquiry, Mr. Chairman.

SAXTON: What's your inquiry?

UNKNOWN: I would like to know if we'll be allowed to offer opening statements for the record.

SAXTON: If you'd like to offer an opening statement in writing for the record, I see nothing wrong with that.

UNKNOWN: Thank you, Mr. Chairman. And also, does that include questions for the record?

SAXTON: Sure.

UNKNOWN: Thank you, Mr. Chairman.

SAXTON: Mr. Everett?

EVERETT: Well, thank you, Mr. Chairman.

I am a -- let me do a couple of things first, housekeeping here. Since the FBI is not represented, I'd like unanimous consent to enter into the record a letter from the Department of Justice in response to Senator Specter's query to FBI Director Mueller concerning Able Danger; and a letter to Senator Specter and Senator Leahy from the former Senator Slade Gordon of the 9/11 Commission, concerning the same Able Danger information.

SAXTON: These orders will also be entered into the record without objection.

EVERETT: I listened carefully to the opening statements of you, Mr. Chairman, and of our ranking members. And I was really impressed with the lack of knowledge that we have concerning Able Danger -- the committee has -- concerning Able Danger.

However, I would also point out that there's one member of the House Armed Services Committee who is very close to this issue. And so, at this time, I'd like to yield my 10 minutes of questioning to Mr. Weldon for his own use -- Curt.

WELDON: I thank the gentleman for his time, and thank the witnesses for coming, and I thank Chairman Hunter who is ill today and could not be, for scheduling this hearing, and also for his request to initiate the IG investigation of the treatment of witnesses who simply came to tell the truth.

We are at a point in time where one of our witnesses today was within two days of having not only his classified status removed, but having his personal pay and his health care benefits for his kids removed, and put on a status that Mark Zaid, his attorney, said he's never seen before, where he was persona non grata. But yet, he couldn't talk to Congress or the media.

That's been corrected with the help of Gordon England -- I thank him for that -- and Secretary Rumsfeld. Because of their intersession, along with the new director of DIA, to allow for a thorough investigation of the treatment of Lieutenant Colonel Shaffer and others to proceed forward.

I want to thank Dr. Cambone for coming in. He was the first one I called officially when this story broke in the "New York Times." And as you remember, Dr. Cambone, when you came in you said to me, congressman, you know more about this program than I do. And you don't refute that statement, do you.

And you said that, because it was the Congress and this committee back in 1999 and 2000 that was aggressively pushing the prototype that the LIWA had established at Fort Belvoir, that we were all so impressed with. In fact, it was on November 4, 1999, at the suggestion of then Deputy Secretary of Defense John Hamre, that we convened a meeting with the deputy director of the FBI and the CIA, using the LIWA model, to propose a national collaborative center, that would have used open source data which the CIA wasn't using then, as well as classified information from 33 agencies, when the president and commander and chief decided such information was wanted to basically assess emerging transnational terrorists threats.

The CIA, two years before 9/11, said, we don't need that. We've put language in three successive defense bills, in spite of that, calling for a national collaborative capability. Prior to 9/11, we didn't have that capability, and we were hit.

But it wasn't until May of last year that I find out not only what the LIWA was doing, but the specific work of Able Danger. When I found out that the military intelligence officers, who we'll hear from today -- and I encourage the members to stay for the classified portion, because you'll hear from some members, or some people, who are very concerned about their testimony as it would affect their careers. And there are others that are not even here that have similar concerns.

And they will testify, with no ulterior motive, not only did Able Danger identify Mohammed Atta by name and by face, we'll have a witness today who will testify how they purchased the photograph of Mohammed Atta, but they will also testify that the identity of the Brooklyn cell -- one of five cells they focused on -- had four of the terrorists, and that September of 2000, there were attempts made to transfer that data to the FBI, to the Washington field office.

Now, Dr. Cambone has stated there's a letter from the FBI I would also share with you, working closely with the Senate Judiciary Committee, that there are two other FBI agents who also have information about scheduling of meetings. I can tell you that we'll have testimony that there were meetings that were attempted to be set up to transfer the data in September of 2000.

Contrary to what the current FBI says today, those FBI employees that Senator Specter knows full well the identity of, will, in fact, be asked to give statements, as well as the woman who had contact with one of our witnesses today in scheduling those meetings in September of 2000.

Now, why is this story important? Well, the 9/11 Commission called Able Danger historically insignificant -- not even a mention, not even a footnote -- even though the chairman of the Joint Chiefs has announced publicly that he was the one that authorized this program of approximately 20 top intelligence officials.

The FBI director at the time, Louie Freeh, in a nationally televised interview on "Meet the Press," said that, if he had had the Able Danger information, that that was the type of actionable intelligence that may have allowed the FBI to prevent 9/11 from ever occurring.

Well, that's pretty significant to me. I lost some good friends in 9/11. The chief of all rescue for New York City Fire Department, Ray Downey, who was the one who convinced me to introduce the legislation creating the Gilmore Commission, was killed, because he was directing the rescue of the 70,000 people from the Trade Center complex.

The 343 firefighters from New York, many of them I knew personally. One of the pilots of one of the planes, who was a former Navy pilot, was a neighbor of mine, Michael Horacs (ph). He went to the same university that I did. He had his throat slit. He left behind a wife and two kids.

When I support the 9/11 Commission, both with my vote and my voice, I thought we were going to get a full, complete analysis of what we knew before 9/11. How can you call a top secret planning program, put into place by the chairman of the Joint Chiefs, operating for two years at a number of separate locations, which the FBI director in October of last said could have prevented 9/11 from ever occurring?

And I would have hoped that we would have had a thorough and unbiased investigation. In fact, when I met with Dr. Cambone I said, Steve, I'll give you

all the witnesses that have come to me. But I want you to tell me they're not going to have their careers threatened. Well, that didn't happen. I have told Dr. Cambone that. I'm not going to get into the specifics today. He knows who I've mentioned to him in the past. And he knows that it's been multiple people, who have had threats to their security clearances, who have had concerns raised by bureaucrats who were working in the agencies back in '99 and 2000, who are still there today.

Am I alleging some cover-up by this administration? No. This is a good news story. The Army had it right. The LIWA had the right model.

But I can tell, the testimony's been a little disingenuous. Over on the Senate side, when Arlen Specter had the hearing, an employee of yours, Dr. Cambone, who is in charge of intelligence, one of your undersecretaries, testified that he was aware that all of the intelligence, or all the information from Able Danger in fact had been destroyed, and that it was done legitimately.

You're today acknowledging that there was additional information at the Garland facility. Is that correct?

It was equal to or more than what was available at LIWA.

OK. Well, the people.

UNKNOWN: Mr. Chairman, could these responses -- could you speak into the mike, please?

CAMBONE: I was asked if the information at Garland was equal to or greater than. I don't know the answer to that. It would have been perfectly possible at Garland to have generated the same data that was at LIWA.

WELDON: Did you talk to the director of the Garland facility?

CAMBONE: I have not talked to these individuals. The people here at this table are the ones who did the interviews.

WELDON: Which one of you talked to the director of the Garland facility? Which one of you?

Do you know his name?

CAMBONE: We talked to Captain Philpot...

WELDON: No. That's not the director of the Garland facility. Scott Philpot ran the Able Danger linkage with LIWA.

Who ran the Garland facility that you just referred to? Do you even know his name? Do any of you?

CAMBONE: Just -- well, I don't have his name, sir.

WELDON: Do any of you have the name?

CAMBONE: Apparently, the people here don't have his name. **WELDON:** Mr. Chairman, the director of the Garland operation run by the Raytheon Corporation, which you referred to in your testimony extensively, was Dr. Bob Johnson, the son of Sam Johnson, honored POW congressman from America.

None of these people have even talked to Dr. Bob Johnson. Dr. Bob Johnson has told me in personal interviews I've had with him, that the information at the Garland facility was more extensive than what was available at the LIWA.

Let me ask this question. Has all of that data also been destroyed?

CAMBONE: I was told that what was transferred was a fraction of the data that was there, and not all of it.

WELDON: Is there any data still in the LIWA files, prior to 9/11 information?

UNKNOWN: Not that we're aware of, sir. We've had LIWA search extensively. In fact, we had the chief analyst from LIWA search. That person went and searched all the F drives where all the Able Danger had been destroyed -- or had been stored -- and he could not find any of that data at all.

WELDON: Will you acknowledge that...

UNKNOWN: So, what we've told is that the data that was at LIWA had been destroyed. And we also interviewed the people who assisted in the destruction of the data at LIWA.

WELDON: Will you acknowledge that two or three weeks ago you found a file with LIWA-based Able Danger information in it? That was overseen -- the removal overseen by a general. Will you acknowledge that?

UNKNOWN: I'm unaware of that, sir.

WELDON: Are you aware of that, Dr. Cambone?

For the record, Mr. Chairman, I will provide the information with the date and the time certain, that LIWA information was found in a file cabinet as recently as three weeks ago.

Now, you're saying there's no data available to LIWA.

In the record I want to enter the fact that, as recently as two weeks ago, I have met with an official who has actually done data runs for me on pre-9/11 data. That individual has identified the following.

He's come up with over 800 hits of the name Atta, using pre-9/11 data. He's come up with five specific hits of the name Mohammed Atta, spelled M-O. He's come up with three specific hits of the name Mohammed Atta, using M-U. He's come up with five specific hits of Mohammed Atef, as opposed to Mohammed Atta, as well as a number of other hits.

This is done in the last month by a current employee using pre- 9/11 data that you've just testified was all destroyed.

CAMBONE: No, no...

WELDON: Mr. Chairman, I can't go through all of the questions I have in this hearing. But I hope just these brief interludes will show the fact that there's been no investigation, there's been no analysis -- by the 9/11 Commission or anyone else.

CAMBONE: Mr. Chairman, if I may, a question for Mr. Weldon. Did you say that the data for those hits was taken out of the LIWA information? Or it was based on data from the '99-2000 timeframe?

WELDON: I don't want to say where it's from, because I've seen what's happened to other -- but I have the name of the individual who did the runs for me. And I can tell you it's pre-9/11 data that still exists, that's able to be run through with these hits.

SAXTON: The gentleman's time has expired.

Mr. Meehan?

MEEHAN: Thank you, Mr. Chairman.

Secretary Cambone, based on the department's review of Able Danger, what do you think are the greatest overall benefits of the project? And what have we learned? What have we gained?

CAMBONE: Sir, I think what they accomplished is quite significant in terms of demonstrating the capacity to use open source data, as well as the techniques they developed for use on classified data, for pulling out relations -- because that's what they do -- and giving analysts the information that they can use to help to develop a case for any, for a variety of reasons.

So, it was a significant effort, and one to be applauded.

MEEHAN: Conversely, what are the significant drawbacks or reasons for concern as a result of the effort?

CAMBONE: Sir, the concerns are those that have been expressed a variety of times over the last few years on the question of whether or not, in going through particularly open source information, care is taken to make certain that information that is inappropriately collected -- because, remember, this is an effort to search names and dates and relationships -- that may be inappropriately collected, not be used inappropriately.

And so, we have in place, in the department and elsewhere through the government, the kinds of regulations that are meant to prevent that from occurring. And I believe that they are effective and are functioning properly.

MEEHAN: Mr. Secretary, in Mr. Shaffer's prepared testimony, he refers to a meeting with you at some point between January and March of 2001.

Do you recall such a meeting?

CAMBONE: I don't recall having a meeting with Mr. Shaffer. I do recall having a meeting -- well, actually, two. But I think the one we're talking about is one with Admiral Wilson, who was accompanied by a number of people, and one of them may well have been Mr. Shaffer. I can't attest to that. I just don't recall it.

MEEHAN: But you don't recall the subject of the meeting or the meeting.

CAMBONE: I recall the subject of the meeting, and it was not...

MEEHAN: What was the subject?

CAMBONE: My recollection, sir, is, it was not this. And if you'd like me to tell you what it was later, I'm happy to do that in a closed session.

MEEHAN: OK. Mr. Chairman, I would like to yield my time to the gentleman from Pennsylvania -- the remainder of my time.

WELDON: Following up on the gentleman's questions, that meeting that was held, Dr. Cambone, was on a program to attempt to rescue Scott Speicher, was it not?

CAMBONE: Mr. Weldon, I'm not going to answer questions about that meeting in an open hearing.

WELDON: Well, you just said who was there. You said Admiral Wilson was there.

CAMBONE: I said Admiral Wilson...

WELDON: Was there a lawyer there?

CAMBONE: Sir, I...

WELDON: A lawyer from DOD by the name of Shiffrin?

CAMBONE: I don't recall if Mr. Shiffrin was there.

WELDON: You don't recall, but you know who Mr. Shiffrin is.

CAMBONE: I do.

WELDON: Mr. Shiffrin was the key consultant to the Garland facility on what could or could not be maintained in terms of data that was collected.

CAMBONE: He was a member, as I recall, of the general counsel's office, who was charged with oversight activities for intelligence.

WELDON: And he was also at that meeting in the first quarter of '01. Mr. Chairman, this is not about finger pointing. It's simply about letting the American people know what we knew before 9/11. The people who did Able Danger came to me nine months ago with recommendations for a new technology through the Office of Naval Intelligence called Able Providence.

We cannot learn how we can prevent the next attack if we don't really understand what happened in the past. And if there are people at the bureaucratic level who are fearful of being embarrassed, because of what they did not do or what they didn't act on -- this is not about embarrassing people. It's about understanding what occurred.

I accept the fact that Congress didn't do its job before 9/11. And I accept the fact that I'm part of the responsibility of bearing that blame.

But for the life of me, I can't understand the difficulty in simply trying to allow these military professionals to tell their story. And you're going to hear them, Mr. Chairman. You're going to hear some of them publicly, and you're going to hear a more dramatic testimony in the closed session.

I don't know what's going on here.

We're going to listen to Dr. Zelikow testify, and he did an interview -- he was the staff director of 9/11 -- he did an interview last week, supported by the 9/11 Commission, where he said he never met Tony Shaffer.

But when Tony Shaffer testifies here, he's going to present Zelikow's business card. Well, what did he do, go out and buy it? Zelikow gave him the business card in Bagram when he met with him and briefed him on Able Danger.

What's going on here? Is this a massive effort to deny reality?

Let me ask you a question, Dr. Cambone. Do you believe, as the 9/11 Commission did, that Able Danger was historically insignificant?

CAMBONE: Sir, I can't speak for the 9/11 Commission.

WELDON: No, I didn't you. Do you believe that it was historically insignificant?

CAMBONE: I think that the Able Danger people did a service to the country. I have done my best, sir, to find the information. If it's there and you can -- if we can find it, produce it, bring it forward, I'm happy to do that.

Did they perform a service? They most certainly performed a service. There's no one here who's denying that they were doing useful work.

In fact, the work was so useful -- might I remind the committee -- that having difficulties getting it up and going at LIWA, they moved it to Garland. Having learned at Garland what it was capable of doing, they picked it up and moved it to Special Operations Command. Having moved it to Special Operations Command, they have continued to develop that capability, and it is today a powerful instrument in the war on terror.

So, Mr. Weldon, there is no one here who denies that the work that was done was important. There is no one here who is looking not to bring the information forward. We simply haven't found it.

WELDON: Well, Steve...

CAMBONE: Bring it forward -- I'm happy to put it on the table.

WELDON: Dr. Cambone, are you aware that on a flight to Mexico earlier this calendar year, Butch Willard from your staff was speaking rather publicly to a person sitting next to him, who happened to be a retired intelligence officer who knows Colonel Shaffer, who will come forward with a signed affidavit that your office was trying to kill this whole story, and that Colonel Shaffer's story had no credibility?

Are you aware that that was a statement by Butch Willard? And we have a signed affidavit coming from the woman who was sitting there.

And how do you feel about that? When we're talking about supposedly having an open process of getting the facts out, that one of your employees -- I assume Butch Willard's on your staff.

CAMBONE: He is.

WELDON: He sat on a plane next to a person and babbled this out. And the person he babbled it to is giving a signed affidavit to what he said to her.

CAMBONE: Mr. Weldon, I...

SAXTON: Excuse me. Let me just interrupt for a minute. We're going to have a closed session following this session. And I would just like to ask the gentleman from Pennsylvania, Mr. Weldon, if he would hold this line of questioning till that time.

WELDON: Sure. I'll be happy to.

SAXTON: Thank you.

WELDON: Thank you, Mr. Chairman.

SAXTON: Mr. Reyes?

WELDON: I didn't think my time is up yet.

SAXTON: I'm sorry.

MEEHAN: I yield to the gentleman whatever time I have.

WELDON: The 9/11 Commission, when the three, including Zelikow, went through Bagram and met with Colonel Shaffer, were told about Able Danger. And you're right, I have verified the same thing you have, that there was requests for information, and you gave them.

Zelikow told Tony Shaffer -- and he'll state that himself in a few moments -- that they were very anxious to meet with him when he returned from active duty.

When he came back, the 9/11 Commission refused to meet with him. We're going to ask Dr. Zelikow why he refused to meet with him, and what the purpose was.

It wasn't until -- they didn't do any interrogation of any of the 9/11 principals. And I've talked to all of them. The 9/11 Commission, which maintains that it investigated this, did not talk to one of the principals.

The only two they talked to were the two who voluntarily went to them -- Colonel Shaffer and Commander Scott Philpot. When Commander Scott Philpot was interviewed by Dietrich Snell, Dietrich Snell's response to him was, what do you want to do with this information now? We're two weeks away from our report being filed.

This committee -- and I applaud counsel for this committee -- asked Dietrich Snell to testify. His boss in New York, Eliot Spitzer, denied Dietrich Snell's ability to testify before us, so that we can ask him, we could ask him under oath why he, in fact, decided not to brief the commissioners.

I don't think the commissioners did anything to basically deny this story. I think it was a staff level decision, and that's something we ought to try to find out why.

And I do acknowledge what you've said about the capability. And we support that.

But I would also say, you know full well, Dr. Cambone, the reason the LIWA facility was shut down was because they had done a profile of a Chinese proliferation capability that potentially would have embarrassed some high level

people in this country. That's when the Army basically was told to shut down LIWA.

And General Schoomaker, who wanted to keep the capability, stood up a separate operation at Garland with Raytheon. He didn't want to lose the capability.

But it's amazing to me that we can say that we've done a thorough job of investigating this, when none of you even know who ran the Garland facility. And he's a son of a congressman, a Ph.D. who is an outstanding expert, who actually wrote the draft of the letter that I sent encouraging the development of a national collaborative center in 1999. That letter was drafted by Dr. Bob Johnson.

My only point is, all I want is us to get at the truth. There's no attempt here to embarrass anyone; it's to know what happened.

And I would also ask you, Dr. Cambone, have you, in fact, talked to any of the witnesses about information that Able Danger had relative to the Port of Aden in Yemen, two weeks and two days before the attack on the USS Cole?

CAMBONE: I did not, but my colleague did.

CHOPE: Sir, in the days preceding 12 October 2000, which was the day the Cole was attacked in Aden harbor, one of the intelligence analysts assigned to the Able Danger effort began to get what he calls gut feel that things were going awry in Yemen; he didn't have any hard intelligence.

He asked then Commander Scott Philpot if that could be briefed at a high level briefing that took place on 10 October, during a VIP visit to the Garland facility, and it was.

To the best of our knowledge, and through the course of our interviews, that information was not of actionable quality. It was not of predictive quality. It was a general feel and a general beginning of bad things, for lack of a better way to put it, in Yemen in general, sir.

WELDON: I would ask my colleagues to sit here for the testimony in the closed hearing on that issue, and to realize that a naval officer's career has been put on hold by one of our Senate colleagues.

When that naval officer -- who I've interviewed and many of you have met -- had three options on that day. He could have refueled the ship at sea. He had two other harbors. If he would have had any indication that there was a problem with Aden in Yemen, he would not have gone there. He was never given that information.

We're playing with a man's career, and we're playing with the loss of 17 sailors' lives. Some of those families are out in the audience today.

We owe it to these people to fully understand what we could have done and what we need to do for the future. And that's what this hearing is all about.

SAXTON: The gentleman's time has expired.

Mr. Reyes?

REYES: Thank you, Mr. Chairman.

And I know my good friend from Pennsylvania believes in when he says that we're trying to get at the truth. And that's exactly why I think it's important that this information not only be provided, but be part of the record.

I'm told by members of the staff that they, in fact, interviewed Bob Johnson. And I have copies of the -- or actually, the original notes here about that interview.

And I was wondering, Mr. Chairman, is it possible to either enter into the record their notes, or maybe have them write up a report on the interview with Mr. Johnson? Which would be preferable, so it would be part of the record?
SAXTON: Ask Dr. Cambone to enter into the record...

REYES: No, no. No, these are two of our staff members that actually interviewed Mr. Johnson, Bob Johnson, who I'm told was in fact, at least from what I can tell from the notes, was not running the facility in Garland, but was there in some capacity working for Raytheon. That...

SAXTON: I'm told by counsel...

WELDON: Would the gentleman yield?

REYES: Yes.

SAXTON: I'm told by counsel there's absolutely no problem in entering those notes into the record. Objection?

WELDON: I don't have objection, but I would prefer that we get Bob Johnson up here to talk to him. I've interviewed him with my staff in the office. And I think we ought to get him up here, and we ought to have a conversation with him.

SAXTON: You want to make your unanimous consent request?

REYES: Yes. I would ask unanimous consent to enter this into the record.

SAXTON: Without objection.

REYES: And we'll -- in deference to the request by my friend from Pennsylvania, are we going to bring him up and interview him? Or how is that going to work? Or is that going to take place?

SAXTON: I believe, if there are future hearings, that's a possibility.

REYES: OK. Thank you, Mr. Chairman.

I also would like a unanimous consent to enter into the record a statement from Governor Kean and Mr. Hamilton on Able Danger, because I think it speaks to one of the issues that my friend from Pennsylvania was talking about. And I'd just like to read a small portion of it, if I could.

It says, on October 21, 2003, Philip Zelikow, the executive director of the 9/11 Commission, two senior commission staff members and a representative of the executive branch met at Bagram Air Force Base, Afghanistan, with three individuals doing intelligence work for the Department of Defense. One of the men, in recounting information about al Qaeda's activities in Afghanistan before 9/11, referred to a DOD program known as Able Danger.

It goes on to explain that that program was now closed, and talks a little bit more about all the information there. But it goes on and it says, as with other meetings, commission staff promptly prepared a memorandum for the record. The memorandum prepared at the time does not record any mention of Mohammed Atta or any of the other future hijackers, or any suggestion that their identities were known to anyone at DOD level before 9/11. Nor do any of the three commission staffers who participated in the interview or the executive branch lawyer recall hearing any such allegation.

But the interesting part here that I find significant is, while still in Afghanistan, Dr. Zelikow called back to the commission headquarters in Washington and requested that staff immediately draft a document requesting -- draft a document request -- seeking information from DOD on Able Danger. The staff had also heard about Able Danger in another context, related to broader military planning involving possible operations against al Qaeda before 9/11.

That's in this document. My question...

WELDON: Will the gentleman yield on that point?

REYES: I will.

WELDON: Would you include in your unanimous request an inclusion of an interview with Dr. Zelikow, just on February the 10th, where he said -- and I quote -- "never briefed about Able Danger while in Afghanistan," which appears to me to be in direct contradiction to what my friend, and gentleman, just said?

REYES: Absolutely. I'll be glad to.

WELDON: Thank you.

REYES: And the reason I read that was because I wanted to ask Dr. Cambone, relative to this statement, the staff had also heard about Able Danger in another context, related to broader military planning involving possible operations against al Qaeda before 9/11.

Can you comment on that? Or tell us in what context those broader possible operations might have been?

CAMBONE: I can't answer for the 9/11 Commission having heard of Able Danger prior to the conversation that took place in Bagram. So, I'm not sure how they might have heard.

But I can tell you what engaged in. And that is, there was a good deal of conversation with staff, committee staff -- commission staff -- about the department's activities in the period of '99, 2000, 2001, with respect to counterterrorism activities, operations in Afghanistan, support to those operations, planning that was being done by the Joint Staff -- things of that nature. And we had an ongoing conversation about that.

I can get for you when we began providing them with the actual documentation on those broader planning efforts. And it is possible, although I don't know, that they may have derived it from that or some other source. But we were in a constant communication with them.

And if I may, Mr. Reyes, the first time I heard about Able Danger was in the context that you're just talking about, because the commission came back and asked us -- as I said in my statement -- for materials in the department on Able Danger. And we went about the business of trying to find what we could on that subject at the time.

REYES: For me, at least, there are several issues that add to confusion. First and foremost, the issue of whether Mr. Zelikow -- who was mentioned in one context here as having acknowledged that he met with and also called back and said, hey, let's -- bring us up to speed on this program of Able Danger.

And then, in the other context that my good friend from Pennsylvania speaks about, where he denies ever having met in Bagram.

So, I think it's vitally important that we sift through all this stuff and find out what is fact and what is fiction.

Having said that, for me at least, it isn't too clear if the mention of Able Danger -- in whatever context, you know, whichever side might be correct, or whichever side might speak to the truth. Was Able Danger in context as a operation, and as a strategy that had been set up -- which I think I agree with a number of my colleagues; it was cutting edge type stuff. I mean, it's a good news effort by the U.S. government to get ahead of the curve now.

How it broke down, or where the disconnect was, is for me as important as whether or not we did have the information that is claimed was there.

So, in trying to -- in helping me understand that, Dr. Cambone, what -- from you being there -- what is the downside of fully having people understand that Able Danger was in existence, the work that they were doing, the information that they provided and the way that it has subsequently either been represented or misrepresented, whichever -- however the truth comes out.

CAMBONE: Yes. Mr. Reyes, there is no downside. There is no downside to letting you know what was done in that project known as Able Danger, first.

Second, I don't believe it broke down in any way, shape or form. It actually provided what it was set up to provide. And what it was set up to provide was what is called an information operations plan, campaign plan, which itself was subsequently rolled into a larger campaign plan, which, again, in the parlance of the department, used all of the elements of power available to the department -- information operations, maritime operations, airborne operations, bombing, boots on the group -- all of that was rolled into a much larger campaign effort, of which the work that was done in the Able Danger compartment was lifted and inserted in proper ways -- not in toto, but in proper ways -- into that larger campaign plan.

It was a success. There is no question about its being a success.

Third, the issue of data mining and Able Danger get intertwined with one another. And the data mining is a technique meant to support the planning. So, it's a technique, it's a tool. And it was designed to demonstrate what could be done in a campaign plan.

They were not, as I understand it, Able Danger was not set up to go find targeting, actionable intelligence and the like, against al Qaeda or any other terrorist organization.

It was perfectly natural and reasonable, however, that they focused on what was the number one problem that the country had at the time in the counterterrorism world, which was al Qaeda. So, if you're going to do a campaign plan against for counterterrorism, you're going to do it, first and foremost, with respect to al Qaeda.

And I have no problem whatsoever in bringing forward to this committee or any other committee what was learned in that process. All I've come before the committee here to say is, in having made the effort, to answer to the concerns, we haven't found that data and material.

If it exists, I am happy to bring it forward. I told Mr. Weldon, I'll go to the server. If he can tell me where it is, I'll go there and extract the data myself.

SAXTON: I thank the gentleman.

CAMBONE: So, we have no problem...

REYES: Thank you, Mr. Chairman.

SAXTON: The gentleman's time has expired.

We go back to the Republican side now for a question. And it will be Mr. Weldon's turn, according to regular order. But before Mr. Weldon asks another series of questions, let me just ask this.

Mr. Weldon has spent a lot of time researching, interviewing, trying to find answers to very important questions that he has raised. Here today, Mr. Weldon has raised a question, essentially asserting that the investigation did not examine all available data, and that searches others did on Atta hit on relevant names.

Mr. Secretary, would you discuss the question? And perhaps the other investigators who are there sitting alongside of you could share their thoughts on this issue as well.

GANDY: Sir, my name is Tom Gandy from the Army G2. I can address the Army's search for data and some aspects of aliasing. Although if we get into the specifics of how we search classified or unclassified data for terrorists, I'd prefer that those specifics of that discussion be addressed in the classified section, because it's just as important a weapon as a rifle, is a manner in which we find these people.

And we shouldn't be discussing some of these details in public.

SAXTON: I understand that. And I think your suggestion is a good one, because we don't want to have that discussion here. However, the assertion has been made that you did not examine all available data, and that searches of others, that others did on Atta hit on relevant names.

Without being specific, would you comment on that?

GANDY: I can tell you what we did do. And we searched over 15 open source databases using today's state-of-the-art tools. And these are way more advanced databases than existed. In the six or seven years -- now going on seven years --

the data mining capabilities, thanks to this committee's help, have improved dramatically.

So, what we basically did, given the situation we faced last summer in trying to figure out what happened here, is we turned the tools of today on the data, the data of today. But we scoped that search to the period from approximately November of '99 through about May of 2000, which is the period of time when we suspected, if there was a chart with Atta's face on it, that would be the period that it would have been developed. It would have been built out of data from that period.

So, we used the tools of today with very modern search algorithms -- and I can discuss some of those; I'd prefer to do that elsewhere -- and searched, and did not come up with the hits on the Mohammed Atta that we are familiar with -- names or pictures.

There could -- it's very possible there are a lot of Mohammed Attas on earth. And it's safe to say that, when you first search right now, if you went to Google and typed Mohammed Atta in there and hit it, in the upper right-hand corner of Google, there could be hundreds of thousands, if not millions, of hits on Atta. And some would be the bad guy that we despise. And some would be others.

So, getting to the Mohammed Atta in that search, we were unable to find, in the search we conducted with today's tools on today's data, scoped to the period of Able Danger, we were unable to find the Mohammed Atta in that data.

SAXTON: Commander Chope, would you like to comment?

CHOPE: Mr. Chairman, I'll speak on behalf of the search and the attempted replication of that type of a search for Mohammed Atta's name undertaken in August of last year, following the news interest generated in Able Danger.

As you well know, and members of the committees know, the Garland facility does not operate anymore in the capacity that it once did. And so, SOCOM has an analytical capability that most closely replicates that Garland system. It is not the same system, it is not the same architecture. However, vast quantities of data were transported or translated from Garland into the SOCOM capability following the Able Danger effort.

Run against that, what I'm told are two libraries full of information, no hits were generating into Mohammed Atta or a Brooklyn cell, sir. At SOCOM, again.

Well I guess mother knows best. Self-hatred is a terrible thing.

SAXTON: Thank you.

It's now under regular order. Mr. Weldon, the gentleman from Pennsylvania's turn to question.

WELDON: Thank you, Mr. Chairman.

We just heard the witnesses state that they destroyed 99 percent of the data. Yet we now understand there are libraries of data against which runs were just held, as recently as six months ago.

The data runs that I'm talking about, which were done by a professional employee, were done within the last two months. And they were done on data that was collected prior to 9/11, but after the attack on the Cole.

And in that data set, the name Atta, prior to 9/11, came up over 800 times. The name Mohammed Atta with an "O" came up five times. The name Mohammed Atta with a "U" came up three times. The name Mohammed Atef came up five times.

Mr. Chairman, if I can eventually ever have assurances that somebody's career won't be destroyed, I'll share it. But I'll tell you. No wonder these witnesses in the next panel don't want to testify in open session. They're all not just afraid of al Qaeda; they're afraid of what's going to happen to them. And that's not right.

When Tony Shaffer has his career destroyed and we sit by, it sends a signal to every uniformed officer in this country, that when you tell the truth, they go after you.

What kind of signal do we send?

Scott Philpot is an Annapolis grad. What, does he have some kind of an agenda? He gets very emotional when he talks about the Cole. How can we just trivialize what these people have said, and pretend it's not real?

That's the purpose of this committee. As I said back in October. If we don't take it any more seriously, then I don't even want to be in this institution.

You said a few moments ago, Dr. Cambone, that you weren't aware of the finding of additional information on Able Danger recently. Is that correct? And that's for all of you.

You're not aware of any recent finding of Able Danger information. Is that correct?

CAMBONE: I am aware of what I have read from comments you have made and from things that have been told to me over the last couple of days.

WELDON: Has anyone come to you from within the Defense Department, to tell you they have found additional information? **CAMBONE:** Not in the sense that you're talking about. In the sense that we discussed over the last day or so about new things that have come up, yes.

WELDON: Will all of you say that? What's your response, Mr. Gandy? Are you aware of any new information?

GANDY: I have not been made aware of any new information (inaudible) that have not been...

WELDON: Commander Chope, were you aware of any new information?

GANDY: ... (inaudible) discovered.

WELDON: Commander Chope, are you aware of any information?

CHOPE: One moment, sir.

DRONBERGER: Congressman, Captain Dronberger, the Joint Staff rep.

We have -- the collective group was made aware of information that was provided by SOCOM, that was forwarded up to the department. And I believe that's what Dr. Cambone was referring to when...

WELDON: What was the date of that?

DRONBERGER: When we received it? I'm not sure, sir. I think it was about three weeks ago.

WELDON: How about February 3rd?

DRONBERGER: Sir, I'm unaware of the exact date. I can find out for you.

WELDON: Were you aware that on February 3rd, General DeFratis (ph), Anthony Porterri (ph), Mr. Howard Taylor, S2 intelligence chief, and another individual, walked into the intelligence section of the first ID command, and went through a file cabinet and identified a bunch of Able Danger material? Are you aware of that?

GANDY: Sir, may I address this? I did have a conversation with Brigadier General or Major General DeFratis (ph), who called me up approximately two weeks ago. And what they had found, and they reported to me, was they had found data that had been previously subpoenaed, related to the JCAG demonstration in the summer/fall of 1999. He had that data search for Able Danger data, and reported back that they had no Able Danger in that.

WELDON: So, there was no Able Danger in any of that material.

GANDY: That has been reported to me, sir.

But the data that was discovered at INSCOM three or four weeks ago, was the data that this Congress had subpoenaed. It was the copies of the data that the Congress had subpoenaed, and they had been in storage since that time. Both the INSCOM judge advocate had informed me of that, as well as General DeFratis (ph) on a Saturday morning. Or actually, a Friday about two or three weeks ago.

And that they were searching for Able Danger data. And it was reported to me they did not come up with any Able Danger data in that -- JCAG demonstration data, but no Able Danger data.

WELDON: Have any of you interviewed Lieutenant Colonel Shaffer regarding the data that he had at his DIA office, which was removed after his security clearance had been pulled, versus what was delivered to the 9/11 Commission, and what appears to be -- excuse me -- a discrepancy in the amount and substance of that data?

Have any of you had that interview with Lieutenant Colonel Shaffer?

GANDY: Yes, sir. Early on, we interviewed Lieutenant Colonel Shaffer about the data that he had at DIA. DIA folks have also interviewed him about that data.

WELDON: Do you agree with his assertion that some of his data was not provided? That there was, in fact, materials that were not delivered, that he had, in fact, in his custody?

GANDY: Sir, I don't have any knowledge of that. He reported to us that he had had data there, and that when the data was not delivered to him. But he had data there. And that's (inaudible)...

WELDON: Have you interviewed the person who actually delivered the data from the Pentagon to the 9/11 Commission? Have you interviewed that person?

GANDY: I have not, sir.

WELDON: Have any of you?

GANDY: Members of the investigative team dealt with the delivery of 911 data to...

WELDON: I've interviewed the person who delivered it. And that person has told me it was not the same data that Colonel Shaffer had in his command at DIA headquarters.

CAMBONE: I wouldn't know how he would know that, sir. I mean, if he had access to the data and didn't know it...

WELDON: I guess he talked to him, because he knows the person.

CAMBONE: I don't know how he knows that the data that Mr. Shaffer says was in there, and the data that he found in there, is the same data. I mean...

WELDON: I guess it's because the two people know each other. And the data that was delivered to the 9/11 Commission, has reported to him, wasn't what he had in his possession at DIA headquarters. I guess that's how he knew. **CAMBONE:** It's altogether possible that what he was told was delivered is not what he said was there.

WELDON: And that's my point, Mr. Chairman. Again, this is not about -- it's about just giving the story. It's about letting people testify, finding out what happened. And if there's an agenda here -- which I don't know that there is; I don't think there is -- that we get the answers to it.

I mean, that's what we're here for. I support the military. I went to war for this data mining operation. I support the capabilities of what you're doing right now, Dr. Cambone. I supported you when you chaired the Rumsfeld commission, and we had to fight the CIA, because (inaudible) 95 19 (ph) was a joke. And you benefited from that, because you did the work on behalf of Secretary Rumsfeld to correct that inequity.

CAMBONE: I'd like to think the country benefited, sir.

WELDON: And you did. You did a fantastic job. Thank goodness we did that, because three years later, the North Koreans launched their missile over Japan. And the work that you did there was (inaudible).

And I'm not a conspiracy theorist. But I can tell you, I've got to wonder what's going on here. I've got to wonder why Jamie Gorelick, who I never met, calls me on the Friday after the "New York Times" writes the story, from her vacation up in Massachusetts and tells my staff it's critically important that you tell Congressman Weldon I did nothing wrong.

I didn't accuse her of doing anything wrong. And I've got to wonder why she told all (ph) inspector staff the same thing two times. She called them from her cell phone. Tell the senator I did not nothing wrong.

Well, who accused you of doing anything wrong?

What bothers me is the appearance that people don't want the story to be told here, for whatever reasons.

You know, this is not my story. I'm simply the voice of the people who came to me, because they knew I supported the data mining effort that they benefited from back in '99 and 2000. It's their story.

And I can tell you, it's more than one person. If it was one person, I might question it. But when six, seven -- and we just had a new retiree. Another retiree just contacted us, who has signed a sworn affidavit, and will go on the record, that he, too, identified Mohammed Atta by name and by face when he worked in intelligence. Now that he's retired, he's willing to come forward.

I mean, I don't understand what's happening here. It's frustrating to me. And on behalf of the kids of Michael Horocs (ph), and on behalf of the five kids of my good friend, Ray Downey, I'm not going to stop here. Three thousand people were killed. We had a sitting president who had to resign because he lied about a third-rate burglary. Nobody was killed.

We had three thousand people killed here, 17 sailors.

The Congress, with Democrat and Republican support together, passed the 9/11 Commission. I support the commission. I support their recommendations. But how could they not even have a footnote about what happened, when we had the chairman of the Joint Chiefs come out publicly and say, I ordered to this to be organized. It was a top secret unit -- and I have the quotes to put in the record.

And how can we say it's historically significant when the FBI director at the time comes out publicly and said, if I would have had that data, we might have been able to stop 9/11.

Now, maybe neither administration wants this story to be told. Maybe that's what it boils down to. Maybe neither administration wants to know what happened between '99 and September of 2001. And so maybe I'm offending everybody.

But you know what? I'm concerned about our soldiers that wear the uniform. They're sitting back watching Tony Shaffer. They saw him have his career that close to being ruined and his life being destroyed.

And I'm looking at those other people out there that are saying, hey, don't rise above the wave, because you'll be shut down.

And if that's what this is all about, then I don't want to be a part of it.

CAMBONE: Mr. Chairman, if I may, please, sir.

SAXTON: Mr. Cambone?

CAMBONE: I will say for the third time, that the Department of Defense has no objection whatsoever to this story in its entirety -- and I add, in its entirety -- being laid for this committee and for the American people. None whatsoever.

It's also the case, however, that there are a lot of people who spend a lot of hard hours working this problem. They're in uniform, too, and they're in government service as well. They are not the enemy of this committee, of the American people. They want to see us win this war just as much as anyone else does.

Thirdly, there is no effort that I am aware of to go after or to end the careers of any individuals who may have been or are now involved in this program. And if there are -- and Mr. Weldon's had my word on this before, and he still has my word on this -- that I will be certain that that is not the case. That if for reasons associated with this program, someone's career is ruined, this committee will know about it from me, Mr. Weldon. And I gave you my word on that, and I am a man of my word.

And as far as I know, that has not taken place.

Now, I am happy, again, in the appropriate setting, to discuss those matters.

But Mr. Chairman, we're all here to get to the bottom of the story. And we'll give you what we know, and as much as we know. And when we get it, you'll have it.

SAXTON: Thank you very much, Mr. Cambone -- Mr. Secretary.

Mrs. Tauscher?

TAUSCHER: Thank you. Dr. Cambone, my parents like to say that I'm smart. And I think my constituents sometimes think I'm smart. But this is very confusing, because, I think that there are lots of threads that have come together into this patchwork quilt.

So, let me just quickly, before I ask my question, review what I think this is really about.

Able Danger was proving a technique, very new, in a very new environment of asymmetrical warfare called data mining.

CAMBONE: Yes, ma'am. It employed that technique for purposes of putting together a plan.

TAUSCHER: Contemporaneous with the proving of this new technique in a new environment -- contemporaneous with that -- there was the emergence of this network called al Qaeda.

CAMBONE: Yes, ma'am. They came to prominence about that time.

TAUSCHER: And the convergence of those two things in the same time and space created the reason that Able Danger was looking at al Qaeda. And the data mining operation effectively became an operation that proved out that open source material. And classified information and general information out there actually did provide, and could provide, operational intelligence that could be then knitted together into larger operational...

CAMBONE: Properly developed and analyzed, yes.

TAUSCHER: Plan (ph). OK.

Let's go to the issue...

CAMBONE: Tom (ph) was right.

TAUSCHER: Thank you.

Let's go to the issue that disturbs me the most. I think -- you know, I have such affection and respect for my friend from Pennsylvania who has mined this issue, significantly knows more about it than I know and will ever know.

But I think the issue about the treatment of whistleblowers is something that we really haven't specifically discussed. We've kind of danced around it.

If you could assure me and the Congress and the American people, and certainly the members of the military and the members of the civilian staff of the government, what exactly the policy in DOD is to whistleblowers.

And perhaps, so that this doesn't degenerate into a he-said he-said -- I feel like I'm at a deposition for a very bad divorce, by the way.

CAMBONE: Yes, ma'am.

TAUSCHER: Why don't we talk about what the protections for whistleblowers are, and how vitally important they are, not only for the protection of the people that are trying to elevate information that perhaps a bureaucracy inconveniently doesn't want to talk about, or they frankly aren't wise enough to understand the import of, but how this intersection of information we know, since we've gotten some things pretty badly wrong over time, is really what our protection is about in the near future.

Can you kind of inform us as to what the policies are, and assure us that those policies are standing and that no one is subject to any threat or intimidation?

CAMBONE: I can assure you that no one is being subjected to threats in this case, to my knowledge, at all. Those who are entitled to the whistleblower status, as you say -- and I'm not the lawyer in this case, but...

TAUSCHER: Not a lawyer either.

CAMBONE: ... their protections are quite formidable, having met the appropriate criteria for doing so. And any individual who does so is subject -- has those protections available to them.

With respect to, I think what is the broader question that you're asking, which is, is it the case that this administration is unwilling or not willing to accept bad information, I'll remind that we did an awful lot of work on an awful lot of not very pleasant issues over the last two years.

We brought forward to this committee and to other committees of the Congress all that we had on those matters. We left them here for this committee and other committees to review.

We're not in the business of not bringing forward embarrassing information. If there is information that is embarrassing in the case of Able Danger, you are deserving of it, and the American people are deserving of it. And I give you my word we will bring it forward. And we're not going to do it over the ruined careers of people in the service or in the civil service to do it.

TAUSCHER: I've read Mr. Shaffer's testimony. And it is peppered with some significant, troubling suggestions that there has been a tremendous amount of intimidation to him and people surrounding him.

Would you consider him someone that should be protected by whistleblower status right now?

CAMBONE: Ma'am, I'm not in a position to make that call. That's one that's done through another process.

And again, to the extent that this committee has asked for the information that the department has with respect to personnel actions against any person associated with this -- and note my care -- that information, I believe, has been provided to the committee.

I'm not at liberty to talk about personnel actions in a setting like this. The Privacy Act prohibits it. But that information, Mr. Chairman, is available to the committee on request.

TAUSCHER: Well, Dr. Cambone, I think that there is a lot here that is instructive about the necessity for there to be more transparency to the extent that we can operate in unclassified settings on many different issues.

I for one -- you know, as a small child I spent 14 years on Wall Street, and then I worked in private sector for 10 years, in the computer business.

And I, for one, believe that data mining, in and of itself, is a fundamentally important, necessary tool in the information age to be sure that we actually not only are grabbing as much information as we possibly can, within the law, respecting people's confidentiality, respecting people's status, but at the same time we have to be very aggressive internationally on this issue.

But I will tell you, the junction between warrantless wiretaps and data mining makes everybody kind of crazy. And that is part of the problem here, I think, a sense that there has not been as much transparency on that issue.

The kind of pushback that I as a member of Congress feel from the administration on warrantless searches, for example, makes me pause when I think about the issue of data mining.

So I think that we have to understand, once again, the context of things always is, in a contemporaneous issue, going to cause people to say, well, I'm feeling good about you today. Go ahead and do it. Or I'm not feeling so good about you today; I want you to stop. And I think that that's an important issue when it comes to this context of this.

And I think that Mr. Weldon, specifically has worked very hard to bubble up information. I appreciate how hard he has worked on this. I appreciate the fact that I think we've gotten some candor out of you today.

And I hope these witnesses, in the private session, will get some satisfaction, too.

And I yield back the balance of my town.

CAMBONE: Mr. Chairman, if I may extend my candor with Ms. Tauscher.

I think, in fact, with respect to the data mining aspect of this program, there is, in fact, very good news on this.

There were reviews made by the intelligence oversight people at the LIWA facility concerning how this was done. There were individuals -- and we can talk about it later if you'd like -- who, when the work moved to Garland, did the proper oversight to assure that U.S. persons information was handled in a proper way, and was dealt with in the proper way.

I second your concern about the way in which data mining is done, and civil liberties. It's something we have to be careful of. And that's why we have in place the rules we have.

As you may know, I've got another problem on the other side of this ledger, which is, you know, I've done too much of that. The Department of Defense has done too much, which I dare say isn't true either. But that's the balance we're trying to strike here.

And I think what happened in this program is clear evidence that the techniques which we are all familiar with, as a result of Google and Yahoo! and all those other search engines out there, can be turned to the national security interests of the country, and can be done in ways that the privacy of U.S. citizens is safeguarded, and that data dealt with appropriately.

So, I'm encouraged by what we learned in this program.

TAUSCHER: If I could just add, Mr. Chairman, I'm very pleased to hear you say that, Dr. Cambone. Because the truth of the matter is, we have to stop the bad guys.

We know the bad guys wouldn't be where they are today if it wasn't for information technology, if it wasn't for the ability to transfer funds electronically, if it wasn't for the ability for people to be ported, literally, from place to place by voice and by image.

And we have to find a way to have both transparency and protections. And plus, frankly, strengthen the relationship between the executive branch and the Congress, so that once again we believe that we're all rowing in the same direction, and that we are actually working with each other and not working against each other.

Thank you, Mr. Chairman.

SAXTON: Thank you, Ms. Tauscher.

Ms. McKinney.

MCKINNEY: Thank you, Mr. Chairman. I would like to thank our chairman for having this hearing. And I certainly want to commend my colleague from Pennsylvania,

Mr. Weldon, for a job well done in trying to sort out what exactly Able Danger was, or is.

I have only a few questions.

My first question is, did either Duane Claridge, Richard Perl or Phillip Zelikow serve in any advisory capacity with Able Danger? That's my first question.

My second question is, what is the current status of DIA? And can you confirm that NSA and DIA are not operating a joint, or not operating a joint operation?

My third question is, does Able Danger have anything to do with Larry Franklin or the passing of classified information to foreign nationals?

CAMBONE: To the best of my knowledge, Dewey Claridge was not a consultant to Able Danger, but I wouldn't know.

Phil Zelikow was the director of the 9/11 Commission. And I don't know if...

MCKINNEY: I know what he was with respect to the 9/11.

CAMBONE: I can't say...

MCKINNEY: But I was asking...

CAMBONE: I don't know.

MCKINNEY: ... with specific reference to Able Danger.

CAMBONE: I don't know.

It doesn't have anything to do with Mr. Franklin's case.

MCKINNEY: What about Mr. Perl?

CAMBONE: Again, I don't have knowledge of who consultants to the Able Danger program might have been.

And I'm not...

MCKINNEY: Do you have a joint operation with NSA? Is there a joint operation between NSA and DIA?

CAMBONE: For what purpose, ma'am? I don't understand the question. A joint -- they are both elements of the intelligence community. What...

MCKINNEY: With respect to data mining or any other effort to access information.

CAMBONE: I am certain that the Defense Intelligence Agency and the National Security Agency, in the pursuance of foreign intelligence -- foreign intelligence -- share information with one another. That is the purpose of the intelligence community, the purpose of the reform act, and the like.

So, I mean, insofar as they're doing their lawful duties, I'm sure that they do talk to one another and share information.

MCKINNEY: And would that constitute, then, a joint operation, an official joint operation sometimes, as well?

CAMBONE: Not that I -- I can find out for you, and perhaps get some more clarity on the question, and I can be precise about the answer. I'd like to answer the question.

MCKINNEY: As precisely as you've answered Mr. Weldon's questions?

CAMBONE: Ma'am, I try as best I can all the time to answer them as precisely -- Mr. Weldon and anyone else.

MCKINNEY: Thank you, Mr. Chairman, I'll yield the remainder of my time to Mr. Weldon, if he has any additional questions for these people.

WELDON: I thank the gentlelady for yielding.

Dr. Cambone, do you agree in your assessment -- or your team here -- that the Able Danger team identified five hotspots, what they called hotspots, which would include Malaysia, Mauritania, Hamburg, Germany, New York and Aden, Yemen?

CAMBONE: Yes, there's said to be that sort of designation of places, to include the Brooklyn cell issue.

WELDON: Now, I realize you can't speak on behalf of the 9/11 Commission, obviously, and I'm not asking you to. But let me ask you this.

After having identified those five hotspots, and then having an attack on the USS Cole in the Port of Aden, Yemen, how could anyone in their right mind classify Able Danger as historically insignificant?

Seventeen sailors were killed in one of the five hotspots that the Able Danger team, you've just acknowledged identified?

How in the world could any commissioner on any -- well, I'm asking you -- could you think of how anyone could classify that work, after we had a warship, 17 sailors killed at one of those hotspots, and to call that work historically insignificant?

CAMBONE: Sir, I didn't do the work for the 9/11 Commission, and I was not involved in that kind of effort.

WELDON: How about your own opinion?

CAMBONE: I don't know how they would answer.

WELDON: I think that there's a lot of information that was generated over that period of time. And I don't know that the crew in the Able Danger exercise was the only one to have identified troubles in Yemen and Aden at the time.

And that, as a consequence of the investigations that were done, what we discovered is, information that might have been available through a variety of channels, hadn't been made available. That's a matter of record, sir.

And so, you know, there you are. I didn't do the look at Brooklyn cell and the other cells. I mean, that was the 9/11 Commission's function.

WELDON: But you know that they identified five cells. And one of those five cells was, in fact, a location of where 17 of our sailors were murdered.

The Department of Defense has conducted a search specifically for Able Danger products. Has any search of DOD databases been conducted, to determine if any Able Danger data was incorporated into other second and third order intelligence products? And if not, why not?

CAMBONE: Intelligence products as such, I don't know that. I do know that -- I know -- what I've been told is, and I've mentioned this already, as the planning process moved forward in the 2001 timeframe, in the Joint Staff, information generated in the Able Danger project was taken into other planning efforts and documents. Substantially.

But in terms of an intelligence product, I don't know the answer to that.

WELDON: Dr. Cambone, just to respond to your comment about whistleblowers -- and I have raised this issue for the 20 years I've been here, so both administrators, all four that I've been here.

In fact, yesterday I mentioned people like Jay Stewart, who had his career ruined at DOE back in the '90s. I mentioned Dr. Gordon Oehler, who was a CIA nonproliferation director at the CIA, who was forced out, partly as the result of Iran's development of their missile technology and Shahad-3.

I mentioned Notra Trulock, who was abused and used in the Chinese scandal investigation when I was on the Cox committee. Mike Maloof, who has had his career screwed, and a whistleblower.

So, I will take a backseat to no one on whistleblowers in any administration.

But I can't believe you can sit there and honestly say that there's not been harassment of people.

And I don't necessarily want to go into public with some of the things I've told you in private about phone calls that were made -- not by you, but by other people. I gave you one example on a plane, where someone had the audacity to make statements. And now there's a statement coming out from that person.

I can tell you that there were -- the press office of the Pentagon actually had the first press conference (inaudible) even talk to Congress and brief the Congress on Able Danger.

In fact, I called the press guy over at the Pentagon and said, what are you doing? And he admitted to me, he shouldn't have said what he said.

And I can tell you what bothers me is, two of our most well known reporters in America, Wolf Blitzer and Brian Bennett -- Brian Bennett for "Time" magazine and Wolf Blitzer for CNN -- told my staff that DOD officials called them and said that Tony Shaffer, the only reason I was interested in this was that Tony Shaffer was having an affair with one of my staff.

Now, if that's not an attempt to destroy someone, I don't know what is.

Now, I asked Tony Shaffer this on the record yesterday. I'm going to ask him today under oath, if he's ever had an affair or tried to have an affair with male or females on my staff.

The answer yesterday was no, and I assume, under oath, it'll be today.

And for us to say that DOD has not tried to discount Tony Shaffer, when the Defense Intelligence Agency reports in the documentation about him that he stole pens -- federal pens.

When I asked Tony about this with his lawyer, when he was 13 years of age and his father worked for one of our embassies, he took some pens for the kids in the school. He admitted that when he took his lie detector test to become an intelligence officer. Yet DIA had the audacity to accuse him of stealing pens. He was 13 years old.

And you're saying there's no harassment? There's no attempt to destroy careers? And that's only the tip of the iceberg.

MCKINNEY: Would the gentleman yield before my time is up, please?

WELDON: It's your time. I'll be happy to give you back your time.

MCKINNEY: OK. I don't need it all.

But I just -- you mentioned that Mr. Shaffer is going to testify to us today under oath. I'd like to ask the chairman if these gentlemen are under oath?

CHAIRMAN: They are not.

MCKINNEY: Could you explain to me why Mr. Shaffer -- Mr. Shaffer's panel, I presume -- will testify under oath, and this panel will not testify under oath? Why is there such disparate treatment?

SAXTON: Neither panel is testifying under oath.

MCKINNEY: So, Mr. Shaffer's panel is not testifying under oath.

SAXTON: That's correct. By law, anyone who appears before a congressional committee is bound to tell the truth.

MCKINNEY: Well, we understand that, but I just came from a committee where people were under oath.

But did the gentleman from Pennsylvania request that this hearing be conducted with panelists under oath?

SAXTON: Not that I'm aware of.

WELDON: I did raise the question, and staff decided, based on what Chairman Saxton has said, which I agree with. But I can tell you that the Government Ops Committee yesterday did put all the witnesses under oath, including Colonel Shaffer and a couple of other active duty employees who had to stand up and take the oath.

But I think we've ascertained now that you all understand you're under oath. Correct? You understand that.

GANDY: Sir, we all took oath to our office.

WELDON: So, you understand, everything you've said is, in fact -- OK. Just for the record.

SAXTON: The gentlelady's time has expired.

Mr. Langevin.

LANGEVIN: Thank you, Mr. Chairman. I want to thank the panel for testifying here today. I want to thank Chairman Weldon -- Congressman Weldon -- for addressing this issue.

I've heard a lot about Able Danger. We've all heard a lot about Able Danger. I think it's important for us to get to the bottom of the issue, and let the chips fall where they may. And that's why I think that today's hearing and the classified hearing that will follow, is very helpful.

I just had a couple of brief questions, and then I'm going to yield my time to the gentleman from Pennsylvania.

But just so that I'm clear and we're clear for the record, because I know -- I've had the opportunity and the privilege to serve with the gentleman from Pennsylvania now for going on six years. And I have deep respect for him, and I know that he's someone of great passion and patriotism. He doesn't take up a cause lightly. And when he does, he's very tenacious.

So, I have respect for him. And out of respect, I take interest in this hearing and what we're doing. I think the information is important.

So, for the record, so that I understand, I'm clear, the question comes to mind, if there were information that were generated from Able Danger, what would be the reason why the information would now not become public, or why wouldn't the information be passed on to the appropriate agencies for further action?

So, the question is, did Able Danger mine any information using inappropriate or illegal means? That is the first question.

The second question I have. Were there then, or are there now, any laws in existence that would prevent any information obtained through Able Danger, or LIWA, from being passed on to the FBI or the Justice Department, or any other agency that would take action?

DRONBERGER: Congressman, to the best of our knowledge, looking through all the records, there was no data that was collected that was either done so in an inappropriate or illegal fashion.

They were data searches using tools that were readily available, in (ph) an open source or in a closed source.

So, there's nothing to indicate that there was any data that was collected inappropriately by the Able Danger team when they were doing their efforts.

LANGEVIN: And, Mr. Cambone, would you respond to that as well?

CAMBONE: I have no opinion different than Captain Dronberger. And the question was not the tools that were used or the information that was gained. It was what use was made of that information once it was gained, specifically with respect to U.S. persons? And what were the rules and regulations that governed it?

And that was the only issue that was pertinent here with respect to that data, in terms of its collection and storage.

With respect to transmission to the FBI -- as far as I know, Hal, and you can correct me -- there wasn't any prohibition on transferring to the FBI, information of interest.

DRONBERGER: That is correct. And in accordance with the DOD directive, there are certain cases where, if you have evidence of a crime, you are required to transmit that data.

And you'll hear more about that in the closed session from some of the witnesses there, regarding the procedures they had in place, and implemented, during the Able Danger effort.

GANDY: I'd like to add a comment onto that. We share -- in Army intelligence and DOD intelligence -- we share information with the FBI, probably every working day of the year. And the field I'm talking about is counter intelligence investigations.

There is a free flow of information across. And this is because we have a procedure. The executive orders and the DOD directives and the Army regulations, in my case, clearly outline how and under what conditions you can share, just as it outlines how and under what conditions you cannot share.

So when we have a mission and we have the authorities and we've done things legally, and we follow the rules on the U.S. person retention of information, there is a free flow of information across law enforcement -- not just FBI, any other kind of law enforcement activity -- that has interests or equity in that information. So, there's nothing, really, that precludes you from doing that.

SAXTON: Mr. Langevin, would you yield to the chairman for just a short question.

LANGDEVIN: I will certainly do that.

SAXTON: Dr. Cambone, you mentioned earlier in your testimony that some information was discarded. And I guess what I need you to do is to clarify the reason that that information was discarded.

CAMBONE: Well, I think my colleagues can give you the larger picture here than I can, because they talked with the people who were involved.

So, if you don't mind, Mr. Gandy can give you that.

GANDY: With respect to the information that was gathered at LIWA, the data mining effort was undertaken, and both U.S. person and foreign person information was pulled into a large database.

When that happens, when you do it under authorities and with regards to the law, and you have U.S. person information, you have 90 days in which to assess whether or not you are allowed to keep that U.S. person information.

And there are protocols which describe that. And the basic protocol says it's have to have a foreign intelligence nexus. It has to be involved with some kind of foreign activity or terrorism, or something like that.

In the case of the LIWA data, it was brought in. And we (ph) recall, I went back and explained how data mining was a little more primitive back then. It was hard -- there was U.S. person information, and a lot of it completely not relevant to terrorism. In fact, one of the people, I think, who will be on one of the committee's panels later will describe how a car dealer in his hometown was inhaled into this data mining process with just, you know, for whatever reason.

And so, the data comes in kind of dirty and you've got to weed through it.

But the 90-day rule approached on assessment of whether you can keep this U.S. person data or not, the intelligence oversight people -- in the Army, at least -- come in and say, OK, how are you doing? Do you have a reason to keep this data? Is there a foreign intelligence nexus? Is there a terrorism nexus, et cetera? And as that time approaches, then a decision is made whether or not you should keep that data or not. Efforts were attempted to try and expunge the data, unsuccessfully. And the time came. I think the last time I talked to the intelligence oversight officer who worked this case for the Land Information Warfare Activity was last Friday. And he said they were approaching, I believe, 80 days.

And then, in concert with the Able Danger analysts, the decision was made to go ahead and destroy the data, because of the 90-day rule, in accordance with Executive Order 12333, DOD directive blah-blah- blah, and AR 31-10.

So, it was done -- it's actually what we train to do in the Army. If you collect stuff, we follow the protocols, we follow the regulations. The intelligence oversight people, that is their job.

And so, from our view, the assessment was made that this information did not fit into any categories where we were allowed to keep it. And the right decision was made in that case to destroy the data.

Does that help?

SAXTON: Mr. Langevin?

LANGEVIN: Thank you. And I yield the balance of my time to the gentleman from Pennsylvania.

WELDON: I thank the gentleman.

DRONBERGER: Mr. Chairman, if I may, and Congressman, if I interrupt you, please.

The procedures that we follow are consistent with what's laid out in the DOD directive in procedures two and three. Procedure one is collection and procedure two is retention and procedure three is dissemination.

And it goes along the lines of what Mr. Gandy just described. So, there's an analysis done on the data to ensure that there is a means by which we can separate that data, that relates to U.S. persons and that which pertains to foreign individuals.

And it's only after it's been reviewed by a number of people at every command, including the lawyer that's attached to it, that they make the decision on whether or not to retain it or not.

WELDON: I thank the gentleman for yielding.

With all due respect, both to Mr. Gandy and Captain Dronberger, the 90-day rule has not been followed. And if you talk to the people that work within your organization, you know that.

First of all, there's still data that being data mined today that was pre-9/11 data. And obviously, some of that's going to have data about U.S. persons. And it's still within your storage capability. Second, the changes that you refer to, Mr. Gandy, were put in by Congress. We're the ones that approved the fact that you could talk. Because there was a requirement back in the '90s you couldn't do that. That was a specific memo that was a subject of the 9/11 Commission, and was referred to by the attorney general. We're the ones that gave that approval, so we're well aware of that.

But thirdly, the lawyer for DOD -- and this meeting took place in my office with my chief of staff and, I think, one other person with me as witnesses -- Dr. Bob Johnson said that his lawyer, consulting him on the information, data mining, collecting at Garland, was, in fact, Richard Shiffrin.

And Richard Shiffrin told him, don't worry about how long you keep the data. You fill a form out, you sign it, and you put it in the bin. You keep it as long as you want.

That's not exactly what we were told by Bill Dugan in the Senate Judiciary Committee hearing. In fact, it flies directly in the face of that. That there was a cavalier attitude.

And so, the question that we ask is, why was the data destroyed? And now we find out it wasn't all destroyed.

And finally, just to close, before we go on to our next panel, I want to read a quote from DIA, which I think is significant. This is on their Web site.

"We in the intelligence business have an unambiguous, non- negotiable responsibility to discern truth and then to tell truth."

How fitting for this hearing.

SAXTON: The gentleman's time has expired.

I would just like to exercise the prerogative of the chair to let, to ask you, Dr. Cambone, or whoever is the appropriate person there on the panel, to respond to Mr. Weldon's last statement.

CAMBONE: Again, sir, this is difficult to do across the table in this fashion. It's undoubtedly the case that not everything gets destroyed, not everything is covered, not all the rules apply to all the data.

If there was a cavalier attitude toward what was being done, it was inappropriate and shouldn't have been done. And if, in fact, that went on, or is going on elsewhere, it shouldn't be. So, the cavalier behavior doesn't discount its being inappropriate.

I did mention earlier in our exchanges here, that when we -- what we're told is that, when the project moved to Garland, Texas, we did not have difficulties associated with dinning that which was covered -- U.S. persons data that might be covered -- by regulation and statute, from that which was not.

So, there are right ways to do this and wrong ways to do this. And it was done properly, as far as I've been told, at Garland. And there were questions as to whether it was done properly at LIWA.

And, sir, we're here to tell you what we know. There isn't anybody here not wanting to tell you what we don't know. We just may not know everything.

SAXTON: Thank you very much. At this time I would like to thank this panel for being with us, and to say that you're excused to leave. And we understand that Dr. Cambone will be back with us later on this evening for the closed session.

And we'll move to our next panel. We welcome our second panel of witnesses for the open portion of today's hearing.

WELDON: Mr. Chairman, would you yield for one moment?

SAXTON: For what purpose?

WELDON: Just for a clarification purpose.

SAXTON: For clarification in terms of process or...

WELDON: I hope it was inadvertent, but we listed the first panel with their military titles. We have a military officer in uniform, and the witness panel lists him as Mr. Anthony Shaffer. He's a Bronze Star recipient. I would hope that we could refer to him as Lieutenant Colonel Anthony Shaffer.

SAXTON: Thank you for the clarification.

Our next panel is made up of Mr. Erik Kleinsmith, former chief of intelligence for the Land Information Warfare Activity Organization; Lieutenant Colonel Anthony Shaffer, a U.S. Army Reserve senior intelligence officer; and Mr. J.D. Smith, a former program manager of Orion Scientific Systems, which provide support to elements of the U.S. Army, including the Land Information Warfare Activity.

I'd like to welcome this panel of witnesses. Thank you for being with us. I would -- in respect for members' times, and I'd like to ask you to summarize your statements and take five minutes or so to do that, if you would.

And we will start with Mr. Kleinsmith. Mr. Kleinsmith, sir, thank you for being with us, and the floor is yours.

KLEINSMITH: Good afternoon, Mr. Chairman, and also thank you to yourself and members of both committees.

I know I've been asked to speak specifically in the open session, but I also will be available for closed session questions later, although I'm not scheduled as one of the witnesses there.

I was chief of intelligence for the Land Information Warfare Activity when SOCOM requested our support. My branch's primary mission, and one thing that is key to understand is that -- and in summarizing my comments -- is that the Land Information Warfare Activity is not an intelligence unit, or was not an intelligence unit, and is now known as First Information Operations Command.

As such, it was only part of the intelligence community, in that it was a subordinate unit of the Intelligence and Security Command in Fort Belvoir, Virginia. What made this distinction even more blurry was that we are co-located in the INSCOM headquarters.

My branch itself was really much like any combat unit has intelligence personnel supporting it on the battlefield. My branch of only 24 analysts was the intelligence portion of the Land Information Warfare Activity as an operational unit.

While we're unique in terms of our ability to use data mining and visualization software, our analytical capabilities were also unique in our ability to support our customers. In that, we were routinely asked of our support by several customers that took our mission set far outside of our normal mission of supporting Army information operations with intelligence.

Because of this, in the two years that I was the chief of intelligence, I did support every combatant command several times. And because of our ability to understand data mining technology from a very unique analytical perspective at the time, myself and Dr. Eileen Preisser spent a lot of our time inventing and rewriting traditional intelligence analytical process and inventing new processes that could better give ourselves the ability to take advantage of the tools we had available.

Our coordination with SOCOM and Able Danger project began in December of 1999. After initial assessment of our capabilities, they came to us and invited us to several working groups that were held at the Joint Warfare Analysis Center.

I'd like to stress during this time that my branch was completely supported by my chain of command, both from the commander of LIWA, Colonel Jim Gibbons, as well as the commander of INSCOM, then Major General Robert Noonan.

One of the pivotal questions again came up to us, or to myself, was whether or not I recognized or remembered seeing Mohammed Atta. And I reiterate the same answer I gave the Senate Judiciary Committee in September, that I do not remember seeing his name or face on a specific chart.

But the more important point is that we were tracking hundreds of names, and we were creating dozens of charts for SOCOM. And while most of these charts contained information and intelligence that needed further analytical vetting, we were still able to identify a significant worldwide footprint with a surprisingly large presence within the United States.

In the middle of our preliminary analysis of the data, we were told to cease our support to SOCOM, due to what we were told were intelligence oversight concerns.

While I received the order through my chain of command, we knew that the order had come from somewhere higher than INSCOM headquarters, or somewhere, you know, up in the Pentagon.

Even today, neither I nor any of the team members I have spoken with can say exactly where the order to cease work originated. This order began a subsequent six-month-long struggle for both LIWA and INSCOM to get permission to restart our work, and was a huge source of frustration felt by both our team and by our SOCOM customer or contacts.

SOCOM finally grew so impatient with our inability to overcome this work stoppage, that they did decide to move their analytical operation to Garland, Texas. And by the time we were allowed to begin work, and after overcoming several hurdles, the bombing of the USS Cole changed the face of our work effort entirely.

It was during this work stoppage around May 2000, that I was required to delete all the raw information, data and product that we had collected during our support of Able Danger. I was required to do this again, and to comply with intelligence oversight regulations covering U.S. persons.

In using data mining tools, we had to assume there was information on U.S. persons throughout all of our data sets. And since we were barred from working with any of the data, either for analysis or to even vet U.S. persons information from that, it all had to go, that was in my possession when 90 days were up.

Thank you again to appear before you, and I'm open for questions.

SAXTON: Thank you very much, Mr. Kleinsmith.

Lieutenant Colonel Shaffer, you're up, sir.

SHAFFER: Sir, thank you.

Mr. Chairman, distinguished members of the committee, thank you for hearing us today.

Able Danger was a good news story, as it's already been pointed out. I won't go through that again. It was the right mission at the right time, with the right people against the right enemy.

I take issue with the representation which they talked about today regarding it only being a campaign plan. There were actual issues, capabilities and units being tied to this capability, which we'll talk about in closed session.

This was not merely a planning exercise, as has been demonstrated here. I will try to walk through that again in closed session.

Essentially, in essence, there was a larger issue here. General Shelton's vision, as well as General Schoomaker's vision was for the resurrection of an OSS capability, using asymmetrical warfare as the basis.

And I'd like to believe that Dr. Zelikow, from my initial briefing on this in October of 2003, one of the reasons he called back that very evening. Clearly, whatever I said, and I do recall saying the information regarding the large scope of the operation, the linkages, include Atta in that briefing.

Using this technology in 1999, I was actually using the LIWA capability for other compartmented operation support. This was not the only operation I was working with LIWA on.

The idea was to bring the best and the brightest together to work on this target, like bringing DaimlerChrysler, Ford and GM together to work on a project. That's why this was such an important project.

I reference back to pioneers in previous military operations, such as General Mitchell, who saw aviation as a developing issue. General Claire Chennault, who actually developed the Flying Tigers as a capability prior to World War II. That was what Able Danger was, a true capability to look at a developing and emerging enemy and to do something about it.

What I'd like to go ahead and do is cover some of the other issues in my prepared testimony, so I can address some of the issues brought up by Dr. Cambone.

First off, I was asked by General Newton to bring other compartmented capabilities to LIWA to have them support these activities. I will talk more about my actual role in Able Danger and other operations in closed session.

During the time that we were working these issues, I was the one who actually matched up LIWA and Special Operations Command because I had used LIWA for other compartmented operations. It was because we knew that this capability was significant as such that we used it for other operations, which I cannot go into in open session, but we used it successfully for other black operations support.

The idea here was that we were using capabilities for whatever made sense. It was not something that we formally did in many instances. I will try to cover in more detail the chain of command, if you would like, in closed session as well about why we were doing what we were doing.

I also dispute what was said about the FBI. The FBI agent in question I know made statements to the Judiciary Committee, which confirmed that I had attempted to gain information about the Al Qaida unit of WFO, so we could provide to set up a meeting for SOCOM to discuss this with Special Operations Command and have information exchanged.

The reason I know this is because we were working a parallel project with the FBI at the time. And I don't understand why Dr. Cambone and company did not mention the fact there was a parallel operation being conducted with DOD, looking at a target regarding the FBI's choice, regarding an overseas terrorism target.

So there were other issues, other linkages which were established. I'm baffled why this link has not been confirmed. Also, to go forward regarding the information regarding DIA and coming after me, regarding reprisal, as soon as two days ago, I was actually questioned by a DIA official about my testimony today and what I said to the I.G. I have reported this to the proper authorities already. So I want to make clear that there have been issues which I have reported and I have not been encouraged to come forward.

As a matter of fact, I've been discouraged by having, in closed session today, DIA has personally, directly, interdicted in U.S. court today, they have said that I will not have counsel in the closed session.

My attorneys filed a suit today, which DOD and DIA lawyers opposed. Because of the issues regarding questionable access to information, I will be going in under protest. I will give you the information you request in closed session. But you need to understand, I'm doing this under protest by DIA, who was part of Dr. Cambone's holdings and has denied me legal representation.

My concern is -- and I've been told, there is issues regarding the fact that this information may have been mishandled -- I feel it's my right to have legal counsel as we go through some of these vexing issues. DIA has denied that.

So let me close by saying there are issues here which I think the committee needs to get to. I have not been supported in this effort to get the information out. And I will do whatever I can to support Congress in its efforts.

UNKNOWN): Thank you, Colonel.

Mr. Smith?

SMITH: Mr. Chairman, distinguished members of both subcommittees, thank you for the opportunity to appear before you and offer my remembrance of support given to the U.S. Army Intelligence Security Command Headquarters at Fort Belvoir, Virginia.

With my testimony, I wish to relay information concerning my involvement with activities now known to me as Able Danger. It is my hope that both subcommittees realize I will convey all pertinent information that I recall concerning my support to Able Danger during the fall of 1999 into the summer of 2000.

My testimony has not been coordinated, nor discussed, with anyone except my counsel, who is present in the room.

From March 1997 to August 2000, I worked at Orion Scientific Systems, McLean, Virginia, as a program manager.

From March 1997 to approximately 15 September 1999, I managed and performed criminal intelligence support activities within the Gulf States Initiative Program. That was a unique, joint, federal, U.S. Army National Guard multi-state -- involving Alabama, Louisiana, Georgia, Mississippi -- effort by working specialized support by contractors, myself and a team, assisting the U.S. government in upgrading criminal intelligence activities in those mentioned states.

We supplied information technology, hardware, software communications, facilities and training to state police and bureaus of narcotics and investigations in those states. It was extremely successful program.

As that program was noticed by several members of the government, within Congress and also in the military, I had the opportunity to meet at Fort Belvoir with Dr. Eileen Pricer, who at that time was the chief intelligence officer at U.S. Army INSCOM, at the Land Information and Warfare Activity. After multiple meetings and discussions about how we could help with activities associated with LIWA missions, we were able to work a task order contract for individual tasking given to us with no guarantee of work or tasking by the government.

Again, I'm reading just parts of my statement, which you can look at it later, for brevity.

To the best of my recollection, specific tasking assignments started with multiple discussions on or around 25 October 1999. The U.S. Army established ground rules for me to operate within. They were extremely specific.

All support was to be unclassified and not accomplished on U.S. government information technology equipment or within U.S. Army facilities.

Orion personnel were not to have access to U.S. government information technology, equipment or data -- unclassified or classified.

Orion personnel were not accessed to classified operations of INSCOM, LIWA or other governmental agencies associated with INSCOM activities.

Orion personnel were not allowed access to personnel or data associated with end user operations.

Orion was to formally produce and deliver all task order products for government approval each and every time.

No tasking was to begin without specific direction from LIWA, Dr. Pricer.

Orion was responsible for accountability of hours charged to the government per task order. We responsible to advise LIWA when chargeable task hours were within 80 to 85 percent of funding. No free work was to be produced for the U.S. government.

Orion personnel had no knowledge of the code name Able Danger or any end user operations.

Those were the ground rules we started with.

We produced -- Orion produced -- visual charts, using proprietary software, offsite, off facilities and that we'd deliver the end products. To the best of my knowledge, we had no connection whatsoever with any government information sources for any of the data extractions we did. Our task deliverables all centered on the concept of find and associate unclassified data meeting specific topics, activities, historical events and/or researched topics assigned by INSCOM.

All data represented on INSCOM deliverables were from the Internet, private sources, and/or automatic pre-designed searches, using a variety of such tools.

Assembly of associations was completed by multiple, trained, experienced analysts. And if the work produced any association linkages, it was documented in drill down capabilities using visual presentation charting.

As an example, any picture that we had identified, would have a subset of data with it, which would back up any association linkages that we did. The data may contain documents associated with other events, pictures, facilities and/or geographic references in the chart, and then we would give it to INSCOM for their further action.

During the Orion support, on or about 25 October 1999 to 4 August 2000, I delivered multiple open-source task order visual charts and printed support documentation that identified linkages or associations of people of interest and events including timelines, charts, historical events, visual charts, all defined by U.S. Army INSCOM.

I was the task leader program manager for this support during the identified timeframe. I made all the deliveries and responded to INSCOM questioning about linkages and the chartsmanship. Detailed analytical support was supplied by a variety of experienced analysts on a per task availability schedule, many of them part-time.

Within that timeframe, I have recollection of a visual chart that identified associations of known terrorist Omar Abdul Rahman, within the New York City geographic area and the name of that particular chart escapes me, but it was -- we called the Brooklyn Cell.

Mohammed Atta's picture, an association of Rahman, was on the chart. Several of these visual charts were printed; and due to the size of the charts, approximately 4.5 by 5 feet, printing irregularities would result. Many times we would print the charts in the smaller version just for handling purposes. Several of these charts addressing multiple topics were retained by me and turned over to Representative Curt Weldon.

The particular Atta chart is no longer available, as it was destroyed in an office move that I had in 2004. I have direct recollection of the chart because I had a copy up until 2004.

Recently, I read what the Honorable Slade Gorton composed and delivered to the Honorable Arlen Specter, chairman of the Committee on the Judiciary, a detailed accounting of the 9/11 Commission reviews and conclusions. The Honorable Slade Gorton concluded that no documents have been found and the Pentagon has conducted its own internal investigations as probed, being broad, deep and aggressive.

The Pentagon uncovered no charts or evidence to support the allegation that Able Danger identified Mohammed Atta before 9/11. He further concluded that each of the individuals -- meaning Colonel Shaffer, Captain Philpot and Congressman Weldon -- has an excuse as to why he can no longer provide the chart. And his final point is claims about Mohammed Atta, even if they were true, would not change the Commission's recommendations.

I have no issues within the Honorable Slade Gorton or any other members of the 9/11 Commission. However, I do agree with his comment that the 9/11 Commission has never claimed to be the last word on the topic of the September 11 terrorist attacks.

The commission acknowledged in the preface to its report new information will eventually come to light. That's why we're here.

Thank you.

(UNKNOWN): Thank you, each, very much for providing this opportunity for us to learn more about this situation.

We're going to go now to Chairman Everett.

EVERETT: Thank you, Jimmy.

Mr. Kleinsmith, are you aware of any special legal reasons for the termination of any of the Able Danger data-mining activities at Land Information Warfare Activity?

KLEINSMITH: Only that, just as we were required to follow at our level, which was Army Regulation 381-10. And now our Army intelligence analysts get this regulation beat into them every year with mandatory training.

In fact, during Able Danger, we had a second session of mandatory intelligence oversight training to reinforce the fact that we had to abide by those rules. The reminder from Captain Tony Gentry (ph), then our legal counsel, that the timeline was running out, it was legitimate in my translation of the regulation. But I did tell him the first time that we had met, 10 days prior, that I would wait until the very last day in hopes that we would be able to restart our mission again.

EVERETT: And you followed the regulation?

KLEINSMITH: Yes, sir.

EVERETT: Mr. Smith, you testified that you recall seeing a chart produced by Orion that showed Mohammed Atta's picture and connection to Omar Rahman, a known terrorist. At the time you saw that, what was the intelligence value of that information?

SMITH: To me, the information was extremely valuable.

At the time, after 9/11 when the pictures were released in newspapers and I did the compare on the chart, when I saw his picture there, I was extremely elated and, to anyone that would listen to me, I showed them the chart that was in my possession. And it was a chart that we had not delivered because it had, in the process of printing, it had some errors in the printing. And so we would not deliver a faulty chart to the U.S. Army, so I would keep ones that had been printed incorrectly, with blurred lines or boxes or colors that blended together, and this chart was one of those.

Atta's picture was a third rung of a group of known associates with the Brooklyn Cell, with Rahman. And he was an underling associate we had -- my recollection is we had multiple names for him. The picture was grainy. Many of the pictures that we had, we were collecting from open-source information.

We had some connections in Los Angeles to some Arabic news services and some people -- we were getting information also from people in the Arabic community.

EVERETT: By what process did that chart get destroyed?

SMITH: It was...

EVERETT: You do not have backup copies?

SMITH: No. It was impossible to do backup copies of it.

EVERETT: How so?

SMITH: The size of it. The size, it just -- there was no way it would fit in a copier. It was about 4-1/2 by 5...

EVERETT: Couldn't you recreate the original chart again?

SMITH: I don't see how -- not with the 60 to 70 pictures that were on it.

EVERETT: How'd you create it the first time?

SMITH: I'm sorry, sir?

EVERETT: How did you create it the first time?

SMITH: We created it using Orion Magic Software and we had done all the associations and linkages and then printed it on a very large printer...

EVERETT: And you couldn't do that again?

SMITH: If I had the software, I could. But, from what I understand, it doesn't exist anymore -- the database that we were using doesn't exist. All the data's gone.

EVERETT: Colonel Shaffer, three or four questions concerning the FBI.

SHAFFER: Yes, sir.

EVERETT: Which office of the FBI did you confirm an appointment with and who was supposed to be at the meeting and at what time was the meeting set for?

SHAFFER: Part of the problem here is I've not been given access to my e-mail at DIA, which contained this information. As I recall -- the office that we went to to obtain the information from the FBI about the appropriate point of contact was the special agent, which has been referred to here, who I was working with on a European terrorist organization.

As a colleague, I said: "Hey, we have some information that we need to provide from Special Operations Command to your folks, who are working the bin Laden issue. Could you give me point of contact?"

She then went back into FBI, WFO, Washington Field Office, and found the appropriate point of contact. As I recall, I gave that that information to my deputy, Lieutenant Colonel Theresa McSwain, who I've already given the name out, regarding the fact that she was involved in some of the activities. She was actually my Able Danger deputy. I actually had the lieutenant colonel who worked for me who was the full-time Able Danger officer and I requested that she set up the meetings between Special Operations Command. In this case, it would have been Commander Philpot's boss. I can't recall his name off the top of my head right now, but the colonel who was over Scott at SOCOM.

We tried to arrange three separate times meetings between the FBI. The first two were done by my deputy, Colonel McSwain, where called over to this WFO office. I did not know the individuals at WFO who were working the bin Laden issue.

And the last time, because SOCOM did not show up the first two times, I personally got involved the last time to try to set up the meeting between Special Operations Command and the FBI. And as I recall, I got a call from Special Agent -- the FBI special agent, saying: Why aren't you guys showing up at these meetings? My colleagues have called me and tell me you guys keep blowing them off.

So I called down to Captain Philpot, 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.

So, to summarize, we went through our existing points of contact with the FBI. We were working with them on other operations. We attempted, through my deputy

and myself, at least three different times, to set up the meeting between WFO, an agent -- I don't remember his name -- I never knew him, but we had the phone number and we tried to set the meeting up.

And the third time, I personally tried to do it. And then I was told later -- well, at the same day I tried to set up the meeting, and SOCOM blew it off -- by Captain Philpot that they were told, they -- SOCOM and this colonel were told not to show up, based on legal advice from the Special Operation Command lawyers.

(UNKNOWN): Will the gentleman yield?

EVERETT: Absolutely.

(UNKNOWN): Do you have any idea what that legal advice was based on?

SHAFFER: I do not have direct knowledge of that. I could only give you information relating to what I recall being told by Captain Philpot at the time. It related to concerns that if the information from SOCOM, regarding the terrorist organizations in question, were provided to the FBI, it may be misused by the FBI.

If that misuse resulted in illegal or bad activity regarding misuse or somebody being killed wrongfully, that information would be traced back to SOCOM and therefore SOCOM would take a black eye for having provided it to the 9/11 Commission -- to the FBI. And the reference was, as I recall, Waco.

There was apparently an issue regarding SOCOM's assistance with the FBI and ATF and Waco and that was apparently the fear, I was told, which prevented -- which the lawyers used as their justification to not pass the information to the FBI.

(UNKNOWN): Can you tell me what the timeframe involved here is?

SHAFFER: Yes. Well, the timeframe when I attempted to move the information was the September 2000 timeframe. The time that all the legal wrangling, I don't -- I was not there at SOCOM, Tampa, every day to go through all the issues. So I couldn't tell you all the discussions that were going on behind the scenes.

(UNKNOWN): I would just raise this and I don't think this is the place to discuss this, but we may want to try and scope this out later, whether or not the concern here had to do with information that may have been available at that time in this group of information...

SHAFFER: Yes, sir.

(UNKNOWN): ... sets that were available that had to do with U.S. citizens.

SHAFFER: The ostensible reason that SOCOM -- I've heard -- had concerns about the, quote/unquote, "Brooklyn Cell," was the potential that these individuals were, quote/unquote, "here legally." And I think that was something at the time was of concern. There was a very broad interpretation of the guidance.

Now, I can speak as an intelligence officer who's bound to approaching U.S. citizens a certain way. I have to identify myself as a U.S. intelligence officer if I'm going to do an intelligence operation. I got to. It's law. Now, that was being expanded out to include green card holders at the time. I mean, if a legal alien was here under a green card, I had to treat him like I would treat you and

tell you: Hey, I'm Tony Shaffer, I'm an intelligence officer, I want you to go do X overseas. I would have to identify myself upfront. I couldn't use methodology which would protect me and the U.S. government.

The interpretation of that was very broadly defined by lawyers at the operational level. That included then, in some cases, individuals here on student visas and individuals who were here not under green card status, but for other status. And I think that was part of the problem here. There was a concern that these guys who came up through the searches may be here legally. And although they're not green card holders, we need to be very careful about how we interpret that.

(UNKNOWN): Thank you very much, sir.

(CROSSTALK)

(UNKNOWN): ... a quick comment?

EVERETT: Go ahead. Please.

(UNKNOWN): Perhaps we'd like to take a closer look at that in closed session, Mr. Chairman.

EVERETT: Thank you.

Mr. Reyes?

REYES: Thank you, Mr. Chairman.

In the context of your comments about sharing information, what were the Department of Defense procedures for sharing the Able Danger information with other agencies? Were there -- and I'm interested in finding out were there clear-cut guidelines, procedures and processes on how that was to be done and what criteria?

SHAFFER: Right. The answer, I'll give you in two parts.

First, there were standing agreements between intelligence organizations regarding information sharing. For example, one of the roles my unit provided to Able Danger was to provide the DIA whole top secret database and the NSA whole top secret database. Regarding the fact we got that and we gave it to SOCOM -- and keep in mind, SOCOM was a Title X organization. The intelligence committee is Title 50. So that took some doing.

So we legally found ways to bring information out of the intelligence community, provide it to SOCOM for the purposes of Able Danger.

REYES: When you say database...

SHAFFER: Right.

REYES: ... is this the lookout classified system?

SHAFFER: We did a combination of things. We actually obtained raw data from both NSA and DIA which were essentially copies of the IDB, which is the DIA's big database -- and then also NSA's databases regarding their SIGINT searches.

I have to go more into this in closed session. But suffice to say, we played this concierge role, essentially as a kind of a middle man, to get these databases. So we did have agreements.

The FBI, being law enforcement, was a bit of a different animal. Part of the issue was the fact that we did have existing relationships with the FBI and law enforcement community, but there was a feeling that: Hey, you know, we need to be careful about what we give law enforcement.

And I don't know if we had any formal documents which said you couldn't do it, but considering the fact Able Danger at the time was a top secret planning mission, I would not approach any organization outside of SOCOM without getting SOCOM's permission first.

Even though I'm a DIA guy, I'm assigned to support them. Therefore, I had to take my lead from them. When it came to the FBI, I made several strong recommendations over the year 2000 that we partner with the FBI. And I referenced the fact that I was doing a joint operation with them regarding another target, which we'll talk about in closed session. I felt it was in our best interest to share and work together with them.

That was not the feeling of SOCOM. I had to respect their feeling regarding operational security, that that needed to be kept within their control. Therefore, although there was nothing technically prohibiting me from giving the information, it was an operational call on their part, saying that they did not want at this point in time to share that information with the FBI.

REYES: So, if I'm understanding you correctly, it was that there wasn't any concrete direction -- if you get written standard operating procedures, if you get this kind of information, this is...

SHAFFER: No.

REYES: ... what you do?

SHAFFER: No.

REYES: Is it your testimony that it was handled on a case-by- case basis?

SHAFFER: Yes, sir.

REYES: Or sensitivity basis or...

SHAFFER: Sensitivity basis was one of the big concerns. I would say common sense was the best guide we tried to use. If something was time-sensitive, the rule was if -- my personal rule and I think the rule as my organization was in charge of it, if it's going to result in a U.S. citizen being killed or an attack occurring, you give that to whoever needs it, no matter what the classification is, period.

If it's planning information regarding what we were doing -- and we'll talk about in closed session -- you need to be careful about how they use that information, regarding the fact that if you're especially using raw intelligence, not finished intelligence, intelligence relating to targeting, you needed to be very judicious in its use. And if it really didn't meet the criteria that someone was about to get killed or something was about to happen, then you would make a judgment on the need to know.

And the standard was need to know and must know. In some cases must know means you had to know the information to do your job. In other cases, need to know sufficed. We kind of used that as our rule.

In the case of Able Danger, it was SOCOM's decision, and I respected that, to not share the information with the FBI. Although I dealt with the FBI on a daily basis.

REYES: So, hearing you say that you dealt with the FBI on a daily basis, was there in fact any information shared with the FBI?

SHAFFER: Significant information regarding the target set. I think that's one of the things we'll talk about in closed session in more detail.

The methodology that we (inaudible) were using to support Able Danger was in many instances being recreated for the FBI to use on one of their terrorism targets. That is to say, what we'll talk about in closed session -- a combination of technology, the psychological profiling, looking at leadership nodes and functions -- was being developed for the FBI.

Now, we developed an artificial operational firewall, based on the -- we weren't going to tell SOCOM about what we were doing for the FBI. We're not going to tell FBI about what we're doing for SOCOM, out of respect to both organizations.

(UNKNOWN): If the gentleman...

SHAFFER: But, that didn't change the fact that I fought several times to bridge that gap.

(UNKNOWN): If the gentleman would yield for a moment, I just -- this is just an announcement. We have a critical witness who is going to appear -- planned to appear in the closed session, who has to leave here for an unavoidable appointment at the White House at 6:00 o'clock.

So we've had several -- we've had a little discussion here among some of us and we have a couple of options. We can miss the critical witness or, since these gentlemen are going to be here for the closed session, we could have the room swept and begin again the closed session so that the critical witness can leave on time to be at the White House. **WELDON:** Mr. Chairman?

EVERETT: Gentleman?

WELDON: I don't have a problem with that, expect I would like them to be able to be questioned in open session. If you want to bring in the closed session witness, have him testify and then leave and then bring them back in open session. A lot of what they have to say has to be on the public record.

And having it in closed session doesn't get the word out. They're willing to testify in open. They have the approval. And to shortchange this because one person has to go to the White House, I think is unfair.

Some of the things they want to say would be closed, but the bulk of what they have to say is open session information that the American people need to hear, especially given the amount of time that we gave to Dr. Cambone in the first round. Because a lot of what they're going to say will directly contradict the perceptions being created here.

So, I would suggest we go to closed session, if that's your desire, but then come back and have these guys in open session again.

MCKINNEY: Mr. Chairman, I also would like to request that it be open session because I have questions to ask as well, and I want them on the record.

WELDON: Mr. Chairman, J.D. Smith's also not allowed in the closed session, so he would not be able to appear.

EVERETT: OK. Why don't we do this: Why don't you go ahead, Mr. Weldon, take your 10 minutes now and then we'll go to the gentlelady from Georgia and then we'll break and go to the closed session.

MCKINNEY: Thank you, Mr. Chairman.

WELDON: Mr. Chairman, I have more questions than will fit in 10 minutes, are we not going to do other rounds?

EVERETT: No, we're just going to do one round.

WELDON: Mr. Chairman, I object to that. I will comply, but that is not possible with the amount of information these witnesses have and with the content of Dr. Cambone, it's very unfair that we can't have these witnesses stay longer than -- I'm willing to stay here until midnight. And to shut this down and go to a closed hearing, to me is patently unfair. I'll run through 10 minutes.

For Mr. Shaffer, have you ever met Dr. Philip Zelikow?

SHAFFER: I'm sorry...

WELDON: Have you ever met Philip Zelikow?

SHAFFER: Yes, sir.

WELDON: Are you aware that he's saying he never met you?

SHAFFER: Yes, sir. I am.

WELDON: What evidence do you have beside the notes of your meeting, what do you have to prove that you met with him?

SHAFFER: Well, as you referenced earlier, at Bagram, Dr. Zelikow approached me after my briefing on Able Danger and said what I said to him -- let me quote exactly what he said -- "What you said today is very important. We need to continue this dialogue upon your return to the United States. Please contact me upon your return so we can continue this discussion.

I have in my hand, Dr. Zelikow -- Philip Zelikow's card -- executive director, National Commission on Terrorist Attacks upon the United States. And he provided me with his card, which I did use upon my return to try to recontact him.

WELDON: Thank you. When you contacted him, how many times did you contact the 9/11 Commission upon your return?

SHAFFER: I tried twice. I tried...

WELDON: And what was the response?

SHAFFER: First time, I called in -- and there's issues I have to talk about it in closed session -- and they said, yes, we know who you are. Let me talk to Dr. Zelikow and find out when he wants you to come in.

They told me they'd give me a call back. They never called back. I called back about a week later. Same number, same individual answers, and he says, yes, we remember who you are. We know who you are. I got to tell you, though, Dr. Zelikow decided we have all the information we need on Able Danger. We don't need you to come back in.

WELDON: Was anyone else affiliated with Able Danger besides Commander Philpot ever talked to by the 9/11 Commission?

SHAFFER: Not to my knowledge and they never asked me to provide any lead information.

WELDON: And following your discussion in an attempt to talk to him, he never contacted you again?

SHAFFER: That is correct.

WELDON: And you volunteered when you went to them, the only other time was when Commander Philpot volunteered in July of 2004 and went to them. Is that correct?

SHAFFER: To my knowledge, that is correct. Yes, sir.

WELDON: Colonel Shaffer, have you felt that you'd been harassed in this process...

SHAFFER: Yes, sir.

WELDON: ... of trying to tell the truth?

SHAFFER: Yes, sir. Multiple times and multiple ways. Yes, sir.

WELDON: And your lawyer is here and he can cite for the record all the details of the times that you've felt that harassment?

SHAFFER: Yes, sir. And I think it's fairly well documented regarding both the hearing yesterday in front of Congressman Shays' committee and the related documents which show that, you know, we were able to refute all allegations against me.

WELDON: Mr. Chairman, I'd ask unanimous consent to include Colonel Shaffer's record in the file which includes letters from every previous DIA leader, as well as his testifying to Tenet personally, which is very rare for a person at his level.

EVERETT: Without objection.

WELDON: Colonel Shaffer, is it your opinion -- you've heard what FBI Director Louis Freeh said about the possibility of this information perhaps having been able to prevent 9/11. Do you believe that?

SHAFFER: Based on my knowledge of what Dr. Smith came up with, J.D. Smith came up with and others come up with, absolutely. Yes, sir. Plus, the added fact that we had operational capabilities which could have been focused to further penetrate the organization, yes, sir.

WELDON: Mr. Smith, do you believe that this information, if it would have been properly transferred, could have helped the FBI as Louis Freeh said, perhaps prevent 9/11?

SMITH: Absolutely.

WELDON: Absolutely.

Mr. Kleinsmith, do you believe that this information could have helped, as the FBI director said, perhaps prevent 9/11?

KLEINSMITH: Yes, sir.

WELDON: I thank all three for that statement.

Do any of you -- what's your response to the characterization by the 9/11 Commission of Able Danger being historically insignificant? And make your answers brief.

SHAFFER: I'll go first. First off, sir, they never did an adequate investigation of the issue. The fact they never sought lead information of other Able Danger members to find out what actually happened on the ground, shows that they were derelict in their duties. Therefore, they can't make that judgment.

WELDON: Mr. Smith?

SMITH: I believe that they never received the proper information about Able Danger and what we were capable of doing and what we did do.

WELDON: When you say they, you mean the commissioners?

SMITH: Yes, the commissioners never got the information. I think it was not only incorrect -- the information they did have, it was dated and it wasn't complete. Also, certain things that bothered me. We were not collecting on U.S. citizens. We were doing linkages with people of interest. The U.S. names would come up. There was no collection ever by our organization on U.S. citizens. And so I couldn't figure out where that was coming from.

The other thing is that, when the agents showed up at Orion to take all our materials, stating everything was classified, I wasn't there that day. Therefore, I had had some charts which I have since turned over to you. All information that we have ever produced, which was all unclassified, was confiscated and to this day we don't know who by.

WELDON: Mr. Kleinsmith, do you have a response to that?

KLEINSMITH: Yes, sir. The key point that I addressed several times was that, again, was it important whether or not we saw Mohammed Atta or remember seeing his name? No. The important point is that this type of intelligence is the way that we have to do intelligence in the future. We cannot afford to not use data-mining and visualization tools. But the direction we were going in, the threat that we were able to see was an historically significant point.

WELDON: Mr. Smith, one of the commissioners stated publicly after the story ran in the New York Times, that you couldn't have had the photograph, because he didn't have a driver's license. Would you comment on where you got the photograph from?

SMITH: We were getting the information from Arab sources through Los Angeles. We were able to get a lot of inside Arabic information. At that time, if you remember, 1999 through 2000, people treated the Internet much as they did their phone calls. They felt that anything they did on the Internet was very, very private when, in fact, we were able to purchase much of the information and get it from their own countrymen.

WELDON: So where did you get the photograph of Mohammed Atta?

SMITH: I believe we got that information directly from a mosque.

WELDON: Did you have a contractor in California that you knew was providing that type of information?

SMITH: Yes, sir. We did. We had multiple contractors we were using as 1099 contractors. They were contractors that would supply us intelligence information. We would give them the task, they would go out and do it. So many hours for so much pay.

WELDON: Did anyone from the 9/11 Commission staff ever talk to you, Mr. Smith?

SMITH: No, sir.

WELDON: Mr. Kleinsmith, anyone from the 9/11 Commission ever talk to you?

KLEINSMITH: No, sir.

WELDON: To your knowledge, the other people that were involved in the Able Danger investigation, were any of them ever talked to by the 9/11 Commission?

(UNKNOWN): No, sir.

WELDON: Mr. Kleinsmith?

KLEINSMITH: No, sir.

WELDON: Mr. Kleinsmith, on September 21, during your testimony before Senator Specter, you made the comment, before you go to bed every night, you think about what other team members think and, if you had not been shut down, what you could have done. Do you still stand by that statement?

KLEINSMITH: Yes, sir.

WELDON: How strongly do you feel about that statement? I think Senator Specter went on to say: Do you think you might have been able to glean some intelligence that could have been helpful? And you said, yes.

KLEINSMITH: Yes, sir. I did. I think some key points is just how much the information, even though it was pre-9/11 information, how much it had shocked us and how entrenched, and that Al Qaida had a presence within the United States.

WELDON: Mr. Kleinsmith, you testified that you knew that you had to destroy data. Would it surprise you if the data that you supposedly destroyed is still available?

KLEINSMITH: If it's still available, it means myself and the warrant officer that I worked with, we had made a mistake. I deleted the primary data set. She had deleted the secondary data set. And we had checked each other's work to ensure that was according to regulation.

WELDON: Could there be other pre-9/11 data that would still be available that could be mined that was collected before 9/11?

KLEINSMITH: Not to my knowledge. I am aware of the safe that contained the JTAG data. And I'm aware of looking at that and to ensure again that we had checked it this summer. The problem with the magnetic media within that safe was that there was not a single automated system at INSCOM to be able to look at the magnetic media. We just did not have the tape readers to read that...

WELDON: Mr. Kleinsmith, you were not involved in destroying the data at the Garland facility. Is that correct?

KLEINSMITH: No, sir. Not at all.

WELDON: Did you ever have contact with Dr. Bob Johnson?

KLEINSMITH: I had actually worked for Raytheon from April 1 to September 1, 2001, but by that time -- and I had been to the Garland facility, but again by that time, the capability of the Garland facility had moved with SOCOM as they had left.

WELDON: Now, Dr. Bob Johnson told me, with a meeting with my staff that his counsel legally was a guy named Richard Shiffirin (ph). Do you know who Mr. Shiffirin (ph) was?

KLEINSMITH: I do not know him personally. Though, I do know who he was.

WELDON: Mr. Shiffirin (ph) told Bob Johnson, don't worry about the 90-day period. You can just put a document in the file and keep it as long as you want. Do you think that's plausible?

KLEINSMITH: Not understanding the illegal opinion on how he came up or originated that decision, I would not be able to comment on, you know, on his thought process.

WELDON: Mr. Smith, are you aware of other people who also will testify and who'll have obviously seen the chart with either the name or the photo of Mohammed Atta?

SMITH: Yes, sir.

WELDON: How many do you think there are? If we went out and tried to find them?

SMITH: I have two people presently that have contacted my counsel, who are willing to sign affidavits. There are others that work in the intelligence community who choose not to partake of this.

WELDON: But they also saw it?

SMITH: They also saw it.

WELDON: How sure are you that it was Mohammed Atta's name and picture?

SMITH: I'm absolutely certain. I used to look at it every morning.

WELDON: You looked at it every morning. So it wasn't a one time deal?

SMITH: No, sir.

WELDON: And was that the chart you think that was given to me that I gave to the White House?

SMITH: Yes, sir. It was.

WELDON: And you're aware that when I gave that chart to the White House, Dan Burton, the chairman of the Government Ops Committee, was with me and stated to the New York Times, that he actually showed the chart to Steve Hadley and explained the linkages?

SMITH: Yes, sir.

WELDON: You're aware of all that?

SMITH: Yes, sir. I am.

WELDON: Colonel Shaffer, in terms of your current status, what is it right now?

SHAFFER: The twilight zone, sir. I'm kind of between jobs. I'm being paid. My primary job has been trying to support assisting Congress in the investigation of Able Danger. I'm being paid as GS-14 right now, although I've been promoted to testify in uniform.

EVERETT: Mr. Weldon, I'm sorry. Mr. Weldon, if I may just interrupt with some good news. The witness has agreed to stay. We were also just notified that we're going to have votes at 5:45. There will be two votes. So we can have the room swept while we're gone.

So, if we'll go to Ms. McKinney now, if that's all right...

WELDON: May I offer one alibi regarding...

EVERETT: ... then right back to you.

Ms. McKinney?

MCKINNEY: Thank you, Mr. Chairman. I only have two questions and then I would like for Lieutenant Colonel Shaffer to continue his response and then I will yield the balance of my time to my colleague, Congressman Weldon.

Although, I do want to take just a few minutes to say that this testimony is absolutely incredible. For those of us who have been trying to get to the bottom of what happened on September 11, it is absolutely incredible that we have three witnesses come before the House Armed Services Committee and tell us that the activities that they were engaged in could possibly have prevented September 11

from happening. This is incredible. And I hope every television camera is watching and recording this. And I hope the American people see this.

Now, the first question I have is, is it possible that Able Danger identified people who were being monitored or protected by other agencies?

And my second question is, you've talked about the destruction of this information. But, Lieutenant Colonel Shaffer, in your testimony, you talk about publicly available information. So can you make a distinction about the destruction of this publicly available information that should not have been destroyed?

SHAFFER: Yes, ma'am. Absolutely.

I believe that Mr. Gandy was incorrect in his assessment and what he said publicly and under oath. There are two exceptions in A.R. 381-10. Exception number two, publicly available information. Information that may be collected about a United States person, if it's publicly available, can be retained.

Let us say that they run your name, ma'am, on the Internet. The U.S. government can keep that because it's public. That's what we're talking about here.

The information that J.D. Smith used, was publicly available. Therefore, that exception by itself merits the fact that they could be retained indefinitely.

Second, Exception 3C, persons or organizations reasonably believed -- reasonably believed -- to be engaged or about to engage in international terrorist or international narcotics activities. That is the other exception. That is what we believe in the information we had. Therefore, that also kicks in the indefinite retention of that data. So, I do dispute what Mr. Gandy said and the reasons given for the destruction.

Further, my my Able Danger set of documents, which included a combination of both open information regarding the databases that I was given to retain for Captain Philpot for his briefings, and also my classified, top secret documents, were all destroyed by DIA in the June and July 2004 timeframe without explanation, which it contained a lot of the same information.

Not the databases, but background information regarding the project.

MCKINNEY: And can you tell us a little bit of why you think this information was destroyed? But also answer the question about the possibility that these people who were identified were being monitored by another agency.

SHAFFER: Let me talk about the other agency thing. We know now, based on retrospect -- and I prefer to talk about a lot of this in closed session -- CIA did have a finding -- this has been talked about in Michael Scheurer's book "Imperial Hubris" -- Alex Base was doing operations.

Their activities were totally firewalled from us. CIA would not cooperate with us, because they stated that if we were successful -- and this is from a CIA operative, told me this -- if we're successful in doing Able Danger, it would steal their thunder, therefore they chose not to cooperate.

We had no knowledge of what they were doing regarding monitoring organizations or individuals.

MCKINNEY: Is there anyone else who would like to offer up a response to either of those questions before we go to Congressman Weldon?

KLEINSMITH: Yes, ma'am, the part about the destruction of data, if we had the ability to go in and pull out the U.S. persons, but we were barred from even working with the data once the cease-work order had taken place, and again, that was an absolutely immense amount of data that we would have to go through.

We had already shared a lot of our information -- not all of it, but a significant amount to SOCOM through products and other analysis.

Again, we still had to abide by the regulations. Even though we were completely covered in how we collected it, we were unable to go through that and pull out pieces that we needed to keep and pieces that had to go. So it all had to go.

(UNKNOWN): Before we go to Mr. Weldon, I would just like to say that it is critical -- I am saddened that more members of Congress aren't here to hear this, because every time the president opens his mouth, we hear that September 11th is the reason that we're doing what we're doing, that we're engaged in the military policy changes, and then the foreign policy that we have today.

And yet we have three witnesses here who have told us that perhaps September 11th could have been prevented had they been allowed to do their jobs. And Lieutenant Colonel Shaffer, let me just say to you, as one who has tried to tell the truth up here in Washington, D.C., that I understand the brunt of what you have carried, the burden that you carry, just for being a truth-teller in Washington, D.C.

I would also just like to say to my colleague from Pennsylvania that you can add my name to anything it is that you want to do to protect the whistleblowers, but also to get to the bottom of what happened on September 11th.

And they've also told us that the 9/11 Commission report is not the final word on what happened on September 11th.

Go ahead, now, Mr. Weldon.

WELDON: Thank you, gentlelady.

Mr. Kleinsmith, as you stated earlier in depositions, that when you destroyed the data, you met Major General Lambert in an airport, and he approached you. And I think he said to you, "Did you delete my data?" He was quite upset.

Would you elaborate on that, and why he felt it was his data, and the fact that you had destroyed it?

KLEINSMITH: Yes, sir. And understanding that SOCOM was our supported customer, so all of our work was for them.

I happened to be going through the Dallas airport en route to Fort Huachuca to teach a class, and had run into Major General Lambert and Colonel Worthington, who was Commander Philpot's boss at the time. And he was quite understandably livid when they had learned -- and I had informed them that we had destroyed the data, not them personally, but through Commander Philpot.

But he was understandably very upset that we had to do this. And I received, in good old-fashioned terms, a good military butt-chewing, so to speak, right there in the airport.

But I completely understood his upset. And again, I sympathize with him not because we lost the data. We could have done the harvest again. We could have recreated some of those databases. Understanding the Internet, some open sources are very fluid. What was upsetting to us the most was that we had destroyed the work we had done. And so the particular places within the U.S., it wasn't guaranteed that we would find those again. That was the hard part of telling him that we had lost any kind of support that we had done. We would be back to square one if we started up.

WELDON: Mr. Kleinsmith, were you aware at the time that there was a major brouhaha erupting in Washington because the LIWA facility had been tasked by Deputy Secretary of Defense John Hamre to do a profile of Chinese proliferation, and that when that profile was done through the LIWA process, it identified some very, very well-known public names in this country?

Were you aware of that, and could that have been another reason why those people were reminding you of that 90-day period?

KLEINSMITH: I was actually part of that team as well, and the analyst that I had assigned to work with Dr. Eileen Price to include myself and two other individuals. The same four persons of us total LIWA that worked for Able Danger also worked on that project.

WELDON: What happened when -- did the kind of proverbial you- know-what hit the fan when that report eventually made its way to the Hill, and some of the names that surfaced came out? What response did you feel at the LIWA?

KLEINSMITH: We received much more attention than I was used to as an Army major, understanding that our mission to serve the LIWA for information operations, we were way outside of our scope. But we were still providing support to a customer.

WELDON: Mr. Chairman, my contention is the reason why the LIWA information was destroyed was because there were people in this city that did not want the report that John Hamre had requested on Chinese proliferation activities to, in fact, still be available.

That information, which I was briefed on and which I had other members briefed on, was extremely provocative, and did, in fact, have the names of innocent people whose names by association came up as we looked at the proliferation of very, very sensitive technology associated with our weapons systems.

Let me ask all three of you -- and this is a question you might not want to answer, but I have to ask you anyway.

You've heard the give-and-take back of -- well, then you've been seeing the nine months of activities. And I'm not a conspiracy theorist. Do you all think that there are people that just want this story to go away, and don't want it to be told? Or do you really believe everybody wants the full truth? What's your own feeling?

Colonel Shaffer?

SHAFFER: Sir, I without a doubt believe people want this to go away, and they will do whatever they can to make it go away.

WELDON: Mr. Smith? Dr. Smith?

SMITH: I firmly believe that people want this to go away. It's cost me two jobs so far and I'm a firm believer in being able to pay my bills. And the pressure I personally felt is similar to Colonel Shaffer's.

WELDON: Mr. Kleinsmith?

KLEINSMITH: Sir, I'm not really qualified to answer it, and honestly because I've always only received support for my involvement with this or -- and unlike my two colleagues, I've not received any pressure, except from a very minor source.

WELDON: But you've seen what's happened to the others that you worked with. I mean, what's your own assessment? Do you think there's an open effort to try to get this whole story out?

KLEINSMITH: Honestly, I cannot give you...

WELDON: So you don't have any feeling either way.

So you think they were being open and candid and everybody's happy, and the people testifying next are only wanting to be in the private because they're fearful of Al Qaeda coming in and killing them. Is that what it's all about?

KLEINSMITH: No, sir, it's just I couldn't speculate accurately without the experience that they had.

EVERETT: The gentleman's time has expired, however, it is his time coming, so we're just going to change the clock. You can keep right on going, Mr. Weldon.

WELDON: Mr. Chairman, I thank you.

And I don't mean to take this time, but this is so much information here, and I wish this work would have been done by the 9/11 Commission. That's why we empowered them, that's why we spent \$70 million, that's why they hired so many staffers.

And I voted for it, and I supported them.

But they didn't do it. They, in fact, have done everything possible to not have this story be told and to discount it. And that's absolutely outrageous.

And I wish the Defense Department would have done a thorough investigation, as Dr. Cambone told me. The fact is nobody's been put under oath in the Defense Department investigation. In a typical I.G. investigation, they do take affidavits, they do take down statements, and they've not done that with anyone.

The fact is that for whatever reason -- and I can only allow the American people to make their own judgments in this -- there are those that do not want this story to be told.

And it's not about classified procedures and methods. We're not going to discuss that. I've been on this committee for 20 years. I would never give up anything that would do damage to one of our intelligence officers.

Rather, it's the fact that people are going to have egg on their face, and they don't want it to be looked at in the context of what could have been done, what should have been done, what we knew, and why we didn't take the appropriate actions that some people -- and you're going to hear some even more startling testimony in the closed session -- could have done to assist us in this process.

And it was this committee who started this process back in 1999, who actually supported with plus-up funding for the LIWA facility.

Mr. Kleinsmith, you're aware of that, aren't you?

KLEINSMITH: Yes, sir.

WELDON: You're aware of the visits that I made personally down there?

KLEINSMITH: Yes, sir.

WELDON: Were you aware of the support that we gave you?

KLEINSMITH: Yes, sir.

WELDON: And that was the letter that was drafted by Dr. Bob Johnson for me recommending that we use the model that LIWA had created for a National Collaborative Center.

And what was the CIA's response, Mr. Kleinsmith, when we proposed that?

KLEINSMITH: I do not remember what their response was.

WELDON: Their response was, "We don't need it."

And as Colonel Shaffer has said, the CIA did not want to see any other agency do something that allegedly was in the bailiwick, and that's why they wouldn't cooperate.

In fact, Colonel Shaffer, I have your notes that you've given -- which I'll ask the chairman to make a part of the record -- where you actually document conversations with CIA agents where they actually say -- and this is in the course of your summary of the Able Danger process and your work on Stratus Ivy -- that, in fact, they didn't want you to have information that was valid about Al Qaida and Mohammed Atta -- or Al Qaida, especially -- because it would make CIA look bad.

SHAFFER: Yes, sir, exactly.

WELDON: I ask that be put in the record, Mr. Chairman.

EVERETT: Without objection.

WELDON: Colonel Shaffer, your career is temporarily back to the point where you've been restored. How close were you to being put on a status that would've totally zeroed you out? And were you about to lose the benefits for your kids and yourself?

SHAFFER: Yes, sir. I was about to be fired unceremoniously, in record time, by the way. My attorney has said that he has never seen DIA move so fast to get rid of someone after they revoked his clearance, to include speeding up both the appeal process and moving forward to essentially write me out of history.

WELDON: Now, we have to ask the question why, Colonel Shaffer, which is very uncomfortable but I have to ask you.

Was it not true that you gave a briefing back in the '99-2000 timeframe where the head of human intelligence for DIA was present, along with a third DIA employee? And can you discuss the scope of that briefing and approximately when that was?

SHAFFER: Yes, sir.

In January of 2001, I briefed the deputy director -- current deputy director of DIA on the components of an operation nicknamed Dorhawk Galley. I can't get into the details of that in open session, but I'll be happy to talk about it in closed.

The essence of that briefing included Able Danger, in that we were talking about how Able Danger information -- methodology has been talked about here regarding the separation of U.S. person information -- was addressed.

That official -- and by the way a Navy captain, who's currently now a civilian member of DIA -- was in the room with me. The individual we're talking about, the deputy director, got up and left the room, refusing to hear my briefing.

WELDON: Was he the deputy director at the time?

SHAFFER: At the time he was deputy chief of human intelligence.

WELDON: He was deputy chief of human intelligence. So when he saw your brief, what did he do?

SHAFFER: He said, "Oh, my God, I can't see this."

WELDON: Why would he say that?

SHAFFER: We didn't -- I thought he was joking at first when he did that.

WELDON: Was it because perhaps of the rule that says -- the famous memo that said there was a firewall and you couldn't share?

SHAFFER: I cannot speculate to his state of mind. All I know is he stood up and left the room, left his own office, and refused to hear my briefing.

WELDON: He left his own office and said, "I can't see this."

SHAFFER: "I can't see this."

WELDON: And what is his status today?

SHAFFER: Deputy director of Defense Intelligence Agency.

WELDON: He's the deputy director of the Defense Intelligence Agency.

SHAFFER: Number two. Yes, sir.

WELDON: Do you think he would be embarrassed if the information came out that he had a chance to be briefed on what you were doing back in '01, January?

SHAFFER: I don't know his feelings on it, sir. But I did try to brief him on the aspects of Able Danger which related to Dorhawk Galley, yes, sir.

WELDON: Mr. Chairman, you can see just in the brief time we've been here, there are so many, so many unanswered questions, that beg this committee and this Congress to get to the bottom of what's going on here.

This can't be brushed aside in some quiet, reserved way, that everybody did their job and it's OK. There are just too many things that are out there that are loose ends. There's just too much information.

And again, it doesn't need to embarrass anyone. But if we allow this process to continue, I can assure you -- and I remember speaking to the Retired CIA Agents Association, Retired FBI Agents Association, I just spoke down at the NRO. And when I give the speech about what's happening here, people can't believe it. Every person that wears the uniform is watching what's happening here.

And Dr. Cambone said there are others who are -- we support all the military. But we don't support somebody being singled out, harassed -- and not just one person, a series of people -- because they're telling the truth, and because that truth might lead to some embarrassments for people who could've and should've done better back before 9/11 occurred.

Colonel Shaffer, are you aware of work that was done by the Able Danger team prior to the attack on the USS Cole? And I'm going to get into this in the closed session, but are you aware of it? **SHAFFER:** Yes, sir. Yes, sir, I am.

WELDON: What are you aware of with what happened with the Able Danger team in 2000 before the attack on the Cole?

SHAFFER: My understanding -- and this is not my direct knowledge, but information I received from Captain Philpot -- they discovered information about two weeks before the Cole attack, about the 1st of October, that there was activities of interest within the Port of Aden in Yemen.

That information was researched by the intelligence analysts, and two days before the attack, was briefed to General Schoomaker, the commander of Special Operations Command.

WELDON: Do you know what happened to it?

SHAFFER: I know that one of the individuals who was integrated within the Able Danger element at Garland, Texas, was a CENTCOM intelligence representative. It is my understanding that information was provided from Captain Philpot to the CENTCOM intelligence representative, at which time Captain Philpot requested they do something with it, they take action on it.

WELDON: We don't have the commander of the Cole with us today, but many of us have talked to him. And his career, as I said earlier, has been placed on hold because there are certain colleagues of ours in the Senate that are blaming him, which is absolutely outrageous.

He's explained he had three options that day, and if he would've known there was any hint of a problem at Yemen -- at the Port of Aden in Yemen -- he would not have taken the Cole into that port. He would have gone to an alternative port; they would have refueled at sea.

And that's really what this is all about. It's trying to understand. I mean, here's a guy -- another guy's career that's been ruined. I mean, how many lives can we ruin because people are embarrassed over information that simply is the truth?

And you know, I could give other examples of harassment that's occurred to some of these people. I'm not going to do that, because I'm not on a witchhunt here. But to say it didn't exist and doesn't exist is just outrageously wrong.

Mr. Kleinsmith, you did not actually work at the Garland facility, did you?

KLEINSMITH: I did, but only after April 1st, 2001, and only a few days at a time.

WELDON: When you were down at Garland, were you ever aware that there was data being collected, and did you have the same policy that you knew in place, or you didn't make that decision down there?

KLEINSMITH: We didn't run the -- we didn't run any support for Able Danger while -- at that time, but I was aware that the operation was running with SOCOM before I arrived.

WELDON: And you have no knowledge whether or not that data was destroyed?

KLEINSMITH: No, sir, I don't.

WELDON: But you are aware that the Garland facility data was transferred to SOCOM?

KLEINSMITH: Yes, sir, as well as the collection software tools. They took that with them as well.

WELDON: To Garland, Texas.

KLEINSMITH: Yes, sir, and that's why...

WELDON: I mean, to SOCOM.

KLEINSMITH: Back to SOCOM. In fact, that's why the Garland facility, by the time I got there, was really more of a shell of what it was the year before.

WELDON: Now, Mr. Kleinsmith, you've testified that you do not have a recollection of Mohammed Atta on a chart. Is that correct?

KLEINSMITH: Yes, sir.

WELDON: Are you certain of that, or you just don't remember?

KLEINSMITH: I do not remember seeing his name on a chart. But, again, when I'm asked that question, it's -- you know, again, at the time, hundreds of names

were coming up. We were looking at dozens of charts, and there was several locations.

WELDON: Some have tried to paint this as being all about a chart. I have the contention it's not about a chart, it's about a massive collection of data. Do you share my concern, or do you believe it's all about a chart?

KLEINSMITH: I completely agree that the chart is not the issue, the one person. It's the fact that we were on the north coast of Hawaii watching the fighters come in, and we were not able to do anything about it. That was the point that our -- the capabilities that we had.

WELDON: You were on the north coast of Hawaii watching the fighters come in...

KLEINSMITH: That's my analogy...

WELDON: ... and you weren't able to do anything about it.

KLEINSMITH: Yes, sir.

WELDON: So it's not about a chart.

KLEINSMITH: No, sir.

WELDON: Mr. Smith, do you agree it's not about a chart?

SMITH: Absolutely agree.

WELDON: So why would people throw that up? Is that a red herring to try to push it off and discount this whole process?

SMITH: I believe it's an embarrassment to the current establishment. We did with a very small, select group of people data-mining of public information that was readily available. Since that time, now we have told our adversaries, the terrorists of the world, what we're doing, and they've changed their methods of operation.

They're going to computer schools, they're using very complex encryption devices. The things that we did in '99 and 2000 are no longer available. But it was such a gold mine of information, and the ties in the U.S. were unbelievable.

WELDON: Thank you.

EVERETT: Thank you very much, Mr. Weldon.

I think it would be a good place for us to break and have the room swept.

If I may just make an announcement, if members of the audience would exit out the back doors as expeditiously as possible in order that we can get the sweep started, we'll be gone for 20-25 minutes for these two votes, then we'll come back for the closed session.

And I want to thank the panelists for being here. You did a great job.

END