

**REBUTTAL
OF THE
DEPARTMENT OF DEFENSE
OFFICE OF THE INSPECTOR GENERAL REPORT
ON THE
ABLE DANGER PROGRAM**

Background

Beginning with a letter dated October 7, 2005, from Congressman Curt Weldon, Vice Chairman of the House Committees on Armed Services and Homeland Security, the Department of Defense (DoD) Office of the Inspector General was directed to conduct an investigation into allegations: 1) that a DoD intelligence program called Able Danger discovered 9/11 terrorists one year before the September 11 attacks; 2) that DoD failed to share that intelligence with the FBI, thereby losing the best known opportunity to prevent the airliner hijackings and attacks on New York and Washington; 3) that DoD terminated Able Danger prematurely, thereby losing further opportunities to collect early warning of the impending 9/11 attacks; and 4) that DoD undertook inappropriate and illegal retaliatory action against Lieutenant Colonel (LTC) Anthony A. Shaffer for making the above allegations to the U.S. Congress.

Congressman Weldon's October 2005 request to the DoD Inspector General for an investigation was joined by numerous other members of Congress who issued letters and verbal directives continuing into 2006 demanding that the Inspector General investigate the Able Danger affair. Among those pressing the Inspector General to conduct an investigation were Congressman Duncan Hunter (Chairman, House Armed Services Committee), Congressman Peter Hoekstra (Chairman, House Permanent Select Committee on Intelligence), Congressman Frank R. Wolf, Senator Charles E. Grassley (Chairman, Senate Finance Committee), Senator John McCain, and Senator Joseph Lieberman.

On September 14, 2006, the DoD Office of the Inspector General issued their report "Alleged Misconduct By Senior DoD Officials Concerning the Able Danger Program and Lieutenant Colonel Anthony A. Shaffer, U.S. Army Reserve." The report concludes, "The evidence did not support assertions that Able Danger identified the September 11, 2001, terrorists nearly a year before the attack, that Able Danger team members were prohibited from sharing information with law enforcement authorities, or that DoD officials reprimed against LTC Shaffer for his disclosures regarding Able Danger."

The Inspector General report was released to the press before any member of Congress requesting the report received a copy or briefing. Moreover, the report itself was unusual for being unclassified, although it dealt with highly sensitive subject matter both as regards national security and personnel.

A reliable source working in the DoD Office of the Inspector General alleged to the Congress that the report was completed and could have been released much earlier, in July 2006, but the Inspector General deliberately delayed release of the report until September 2006. The timing of the release of the report coincided with the completion of the FY 2007 National Defense Authorization Bill, other major legislation including border security, and the mid-term congressional elections, giving the Congress little opportunity to respond to the Inspector General report promptly.

As shall be demonstrated, the Inspector General report is grossly incompetent, or deliberately dishonest, in its process of discovering and reporting facts and in its analysis. The bottom line of the Inspector General report is that numerous senior members of the Able Danger team are liars, a necessary conclusion in order to completely exonerate senior DoD and Administration officials of bungling a near ideal opportunity to prevent the 9/11 attacks. Unfortunately, this erroneous conclusion from the DoD Inspector General is not surprising, given the long history of that office in covering-up embarrassments to DoD and presidential administrations.

Since the DoD Inspector General Office has failed in its duty to competently investigate the Able Danger affair, the U.S. Congress must exercise its oversight powers and conduct its own independent investigation. This rebuttal to the Inspector General report is a first step in that process.

Congress and the DoD Inspector General: Checks and Balances

Merely because the Congress asked the DoD Inspector General to investigate the Able Danger affair, some in the press have treated the DoD Inspector General report on Able Danger as definitive, the final word on the subject. This reflects a misunderstanding about the constitutional relationship between Congress and the Department of Defense, and about how the process of congressional oversight works.

Under the Constitution of the United States, the Congress is responsible for “regulating” the activities of the armed forces of the United States, including the expenditure of monies, the administration of programs, and the management of personnel. Congress routinely tasks the DoD Inspector General to conduct a fact finding investigation as a corrective or as a first step in the process of exercising its oversight powers. Usually Congress can rely upon the DoD Inspector General to conduct an impartial investigation and administer correctives.

However, most matters of concern to the Congress and the DoD Inspector General do not put at risk the reputations of senior DoD officials, or of presidents and their administrations, that would pose a special challenge to the integrity of an investigation conducted by the DoD Inspector General. Congress understands that in cases of major national controversy, where careers and reputations of senior officials are at stake, the objectivity of the DoD Inspector General may be challenged.

After all, the DoD Office of the Inspector General is part of the Department of Defense and the careers of its personnel depend upon the Department. Common sense suggests that in some cases DoD may not be trustworthy to investigate itself. For that reason, the founding fathers vested powers to “regulate” the armed forces, not in the armed forces themselves, or in the commander-in-chief (the head of the armed forces), but in Congress.

Unfortunately, there are many historical precedents warning that the Department of Defense cannot always be relied upon to objectively investigate itself. Indeed, there are cases where the DoD Inspector General has failed in its duty to faithfully discover and

report facts. There are cases where the Office of the Inspector General has become a co-conspirator with DoD, or with a presidential administration, in trying to conceal facts embarrassing to the Department. For example:

- *USS Iowa Affair.* On April 19, 1989, a gun turret explosion on the *USS Iowa* killed 47 sailors. The DoD Inspector General defended an attempted Navy cover-up that leaked false allegations to the press blaming two sailors for the explosion, supposedly the result of a homosexual affair turned homicidal. The sailors were not homosexuals, did not cause the explosion, and their families protested the defamation of their sons. The DoD Inspector General defended the false allegations leaked to the press claiming they “did not malign the character” of the sailors. The DoD Inspector General even praised the malicious lies against the sailors stating, “Some of the leaks may more properly be described as good investigative journalism.”
- *Tailhook Scandal.* At the September 1991 Tailhook convention, numerous female U.S. Navy officers were sexually harassed by some of their male colleagues. The DoD Inspector General report on the Tailhook scandal was judged so untrustworthy as to be inadmissible as evidence in court. In a 1994 trial on Tailhook before the U.S. District Court in Las Vegas, Justice Philip Pro tossed out the DoD Inspector General report describing it as “not sufficiently trustworthy” and “replete with double hearsay and summaries of testimony attributed to various unidentified individuals who were not subject to cross examination.”
- *DoD IG Fails Peer Review.* In 1997, 2000, and 2001, the DoD Inspector General underwent a review of its standards and practices by peer Inspectors General from other departments and agencies. They found that the quality of work by the DoD Inspector General was inadequate, did not comply with U.S. government auditing standards, and was insufficiently documented, reviewed, and supervised. Moreover, the 2000 peer review found that the DoD Inspector General altered and destroyed documents in an attempt to cover-up its shortcomings.
- *Strategic Tanker Cover-Up.* In 2004, Pentagon plans to replace KC-135 tankers with Boeing KC-767 tankers, that were converted to this purpose from civilian aircraft, was found to be against the national security interests of the United States and the result of a corrupt deal between government and industry officials. The procurement scandal and investigation by the DoD Inspector General resulted in the jailing of a low-level DoD official. The Senate Armed Services Committee criticized the DoD Inspector General for covering-up wrongdoing by senior officials, and urged Defense Secretary Rumsfeld to “take actions to hold those responsible accountable. Otherwise the fallout from the Air Force procurement scandal will have disastrous effects on the integrity of the acquisition system.”
- *Atomic Veterans, Agent Orange, POW/MIAs, Gulf War Syndrome.* The Department of Defense has often, on matters of major national concern, failed to adequately investigate itself to satisfy the American people, moving Congress, the

press, and public groups to conduct independent investigations. For example, during the 1950s did U.S. military personnel exposed to atomic tests suffer ill effects and die prematurely from radiation-induced diseases? During the Vietnam War, did U.S. military personnel exposed to the defoliant “agent orange” suffer effects injurious to their health? Did the United States government make a maximum effort to recover all U.S. personnel held prisoners-of-war or missing-in-action during and after the Vietnam War? During the first Persian Gulf War, did thousands of U.S. soldiers suffer effects injurious to their health from exposure to low-levels of chemical agents released by U.S. bombing of Iraqi chemical weapon depots? Unfortunately, the Department of Defense has not always acquitted itself honorably and well in answering questions such as these. Consequently, controversy surrounding many of these issues has continued for years, even decades.

Congress showed due diligence in the exercise of its oversight powers by tasking the DoD Office of the Inspector General to investigate the Able Danger affair. The Able Danger affair is a major national controversy, where the reputations of senior DoD officials—and of presidents and their administrations—are at stake over responsibility for the failure to prevent the 9/11 hijackings and attacks on New York and Washington. Therefore, it was incumbent on the DoD Inspector General to conduct an investigation and produce a report that is factually and analytically unimpeachable.

Congressional responsibility does not end with receipt of the Inspector General report. The Congress would be remiss in its constitutional duty if it simply “rubberstamped” the Inspector General report. The U.S. Congress owes to the American people a healthy skepticism toward the DoD Inspector General report on Able Danger.

Even a casual reading of the Inspector General report on the Able Danger affair raises serious questions—if not impugns—the report’s factual and analytical integrity.

What’s Wrong With The DoD Inspector General Report?

Summarizing the problems with the Inspector General report on the Able Danger affair:

- 1) The report falsely alleges that there is no evidence that the Able Danger program discovered Mohammed Atta and other 9/11 terrorists prior to the September 11 attacks.
- 2) The report falsely claims to prove that the Able Danger project never produced a chart identifying Mohammed Atta, the 9/11 ringleader.
- 3) The report falsely claims the Able Danger witnesses are not credible, and is so clearly hostile and biased against those witnesses that it concocts false “evidence” in an effort to discredit them. Generally, as is evident in the examination that follows of the three specific analytical failures described above, the DoD Inspector General did not exercise due diligence in collecting and reporting facts and interviewing witnesses, and neglected or deliberately ignored exculpatory evidence.

The report falsely alleges that there is no evidence that the Able Danger program discovered Mohammed Atta and other 9/11 terrorists prior to the September 11 attacks.

The DoD Inspector General concludes, “The evidence did not support assertions that Able Danger identified the September 11, 2001, terrorists nearly a year before the attack...” More specifically, what the Inspector General means by this is significantly clarified in the body of their report (p. 3): “Our review of *Able Danger team records* found no evidence that Able Danger team members had identified Mohammed Atta or any of the other terrorists who participated in the 9/11 attack.” (Italics added.)

Yet finding evidence in the “Able Danger team records” of the discovery of Mohammed Atta or other terrorists who participated in 9/11 should no longer be possible as, according to testimony by the Able Danger team members to the Congress, those records were destroyed. The Inspector General report confirms that the Able Danger records were, in fact, destroyed (p. 3): “We found that large quantities of data that had been collected at two locations as part of the Able Danger data mining mission were destroyed. One intelligence analyst told us that he destroyed approximately ‘2.5 terabytes’ of Able Danger data that had been collected at the Land Information Warfare Activity (LIWA), Fort Belvoir, VA...”

The Inspector General report does not explain how they could have conducted a “review” of now non-existent Able Danger records. The Inspector General report mentions the destruction of Able Danger records in order to assert that destroying the Able Danger data was legal and “followed established procedure and violated no regulation”—an issue that was never in dispute.

The Inspector General’s assertion that they reviewed Able Danger records is glaringly contradicted by, and cannot be reconciled with, the fact that those records were destroyed.

The Inspector General report makes no mention of the existence of pre-9/11 data—on Mohammed Atta and other terrorists who participated in the September 11, 2001, attacks—located in other U.S. government databases that would certainly have been collected by the Able Danger data mining operation. Investigation by the U.S. Congress found, for example, that Mohammed Atta and other 9/11 terrorists appear hundreds of times in various U.S. government databases prior to the attacks of September 11, 2001.

Indeed, Mohammed Atta, the ringleader of the 9/11 terrorists, left a conspicuous “paper trail” in connection with the September 11 conspiracy that certainly would have been detected by Able Danger. Atta associated with prominent known terrorists, such as Khalid Sheikh Mohammed, Osama Bin Laden’s right hand man in planning the 9/11 plot. Mohammed Atta traveled back and forth to the United States, Germany, and Spain on a passport. He had a large bank account in the United States and conducted large cash transfers in order to finance the 9/11 operation. While in the U.S., Atta enrolled in flight training school to learn how to fly large commercial airliners. While in the U.S., Atta received a traffic ticket for driving without a license. Atta applied for a driver’s license under his own name.

Further, former Attorney General John Ashcroft in a recently published book (*Never Again: Securing America and Restoring Justice*) reveals that the Clinton Administration National Security Council had intelligence on an al Qaeda presence in the United States in the year 2000, just as alleged by the Able Danger witnesses. According to Ashcroft, the highly classified *NSC Millennium After Action Review* “warned of a substantial al Qaeda network and affiliated terrorist presence within the United States, and it was critical of the nation’s security measures taken prior to 2000.” Ashcroft notes that it is this classified NSC memo that former National Security Advisor Sandy Berger attempted to steal from the National Archives and destroy, prior to President Clinton’s testimony before the 9/11 Commission.

It is inconceivable that the Able Danger data mining operation would have failed to collect some or all of the copious data on Mohammed Atta and other 9/11 terrorists in U.S. government and other public records prior to the attacks of September 11, 2001. Yet the Inspector General report ignores this data and its significance to Able Danger.

When the Inspector General briefed Congressman Weldon on their report, Weldon criticized the Inspector General for excluding from their report any mention of the pre-9/11 data on Mohammed Atta and other 9/11 terrorists existing in other government databases. The Inspector General acknowledged the existence of this data, but argued that it was irrelevant to their tasking, that focused narrowly on the Able Danger database.

Therefore, the Inspector General report’s assertion that they conducted a “review” of the Able Danger records, and found no evidence of Mohammed Atta or other 9/11 terrorists, is highly misleading on two counts. First, a review of Able Danger records is impossible, since the Able Danger records were destroyed. Second, the Inspector General defined their tasking so narrowly as to exclude pre-9/11 data on Atta and other terrorists existing in other government databases, that certainly would have been collected by Able Danger.

Sources within the U.S. Intelligence Community have told the U.S. Congress that some Able Danger records still survive proving that the program detected Mohammed Atta and several of his fellow terrorists prior to 9/11. These sources have not yet provided evidence to prove their allegations, claiming they cannot do so without sacrificing their anonymity, that they insist on preserving because they allegedly do not trust the Inspector General and fear retaliation from DoD.

Perhaps significantly, buried in the middle of the Inspector General report is what some might describe as a “Get Out Of Jail Free” card for the Inspector General, just in case surviving Able Danger records identifying Mohammed Atta are discovered. The Inspector General report concedes that Able Danger may well have detected Mohammed Atta and other 9/11 terrorists prior to September 11, 2001, but argues such an intelligence coup would be insignificant. According to the Inspector General report (p. 34), “Although it is conceivable that the name ‘Mohammed Atta’ or a photograph of Mohammed Atta may have appeared along with thousands of other bits of information examined by the Able Danger team, neither Mohammed Atta nor any other 9/11 terrorist

was identified in a manner that would have linked them to al Qaeda or justified more focused information gathering.”

The concession by the Inspector General that Able Danger might have detected Mohammed Atta and other 9/11 terrorists before September 11, 2001, is immensely important, is in fact at the heart of the entire controversy over Able Danger. Yet the Inspector General fails to include this finding in its summary or among its key judgments. Nor does the Inspector General allow the acknowledged possibility that Able Danger might have detected Mohammed Atta to soften or make more circumspect its assertions about the supposed insignificance of the Able Danger program or the implied dishonesty of the Able Danger team.

The Inspector General’s attempts to dismiss the significance of Able Danger’s detection of Mohammed Atta and other 9/11 terrorists are unpersuasive. Since the purpose of Able Danger was to discover al Qaeda terrorists, the detection of Mohammed Atta and other 9/11 terrorists by Able Danger would, contrary to the Inspector General, have constituted the establishment of a possible link with al Qaeda. The 9/11 Commission concluded that the discovery by the FBI of the least important of the 9/11 terrorists, Zacarias Moussaoui, about one month before 9/11, constituted the best opportunity to stop the airliner hijackings and attacks on New York and Washington of September 11, 2001. Surely, the discovery by Able Danger of the 9/11 ringleader, Mohammed Atta, about one year before 9/11, would have been an even better opportunity to prevent the September 11 catastrophe. That the Able Danger team appreciated the significance of their discovery is proven by their thwarted efforts to inform the FBI, and by their willingness to risk their reputations by testifying to Congress after 9/11. But of course, the Inspector General claims that none of the senior members of the Able Danger team who have come forward are trustworthy.

On the issue of whether Able Danger detected Mohammed Atta and other 9/11 terrorists before September 11, 2001, the single most important fact bearing on this question is conceded by the Inspector General, but not included in their report. Pre-9/11 data on Mohammed Atta and other 9/11 terrorists exists in other U.S. government databases. Through incompetence or dishonesty, the Inspector General report fails to acknowledge this fact or to deduce the obvious conclusion.

The existence of pre-9/11 data on Mohammed Atta and other 9/11 terrorists in U.S. government databases proves beyond a reasonable doubt that the Able Danger data mining operation must have collected at least this data on Atta and other 9/11 terrorists. Thus, the best evidence supports the single most important and most controversial claim of the Able Danger witnesses who testified to Congress. As the Able Danger witnesses are proven credible on this crucial point, their general trustworthiness is also proven, and their entire testimony, though there may be the usual inevitable errors of detail, should be deemed generally credible and true.

The DoD Inspector General report falsely claims to prove that the Able Danger program never produced a chart identifying Mohammed Atta, the 9/11 ringleader.

The cornerstone of the Inspector General's case that Able Danger never detected Mohammed Atta is a single chart that, according to the Inspector General, is the source of a false collective memory among the Able Danger team that they detected Mohammed Atta.

However, although several of the Able Danger team recollected a chart showing Mohammed Atta as an illustration of their program's achievement against al Qaeda, all recognized that the chart was relatively unimportant, was merely a symbol of the Able Danger program's real achievement against al Qaeda—the data mining effort—the records of which were all destroyed.

For example, Mr. Erik Kleinsmith, a senior member of the Able Danger team, who led the data mining project, noted pointedly in his February 15, 2006, testimony to Congress that the chart and its picture of Mohammed Atta was unimportant, compared with Able Danger's collection of copious data showing an al Qaeda presence in the United States. Kleinsmith: "One of the...questions...was whether or not I recognized or remembered seeing Mohammed Atta. And I reiterate...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."

Kleinsmith in earlier testimony to Congress, on September 21, 2005, made the same point, that a specific chart was unimportant compared to the real achievement of Able Danger, the highly successful data mining effort against al Qaeda: "We were able to collect an immense amount of data for analysis that allowed us to map al Qaeda as a worldwide threat with a surprisingly significant presence within the United States." Significantly, Kleinsmith also testified that the Able Danger program produced its own charts (that were subsequently destroyed), and that these charts were more sophisticated than charts (only one or two) provided by a contractor, Orion Scientific: "We also had printouts of charts that we had produced...the charts that we had produced, as well as one chart or two that Orion Scientific had provided to us, but we had already gone beyond their analysis. So both soft copy and hard copy was deleted or destroyed."

Nonetheless, despite the fact that the Able Danger program was about data mining against al Qaeda—not about producing charts—the Inspector General report focuses its analysis of Able Danger almost exclusively on "proving" that Able Danger never produced a chart showing Mohammed Atta. According to the Inspector General report (p. 3), "The preponderance of witness testimony indicated that recollections concerning the identification of 9/11 terrorists were linked to a single chart depicting al Qaeda cells responsible for pre-9/11 terrorist attacks, which was obtained but not produced by the Able Danger team. The chart (Figure 1 of this report) was produced by Orion Scientific Corporation (Orion) in May 1999 and contained the names and/or photographs of 53 terrorists who had been identified and in many cases, incarcerated, before 9/11, including

a Brooklyn cell, but it did not identify Mohammed Atta or any of the other terrorists who participated in the 9/11 attack.”

Yet, as noted in Kleinsmith’s testimony above, the head of the Able Danger data mining effort stated specifically that the Able Danger team produced its own charts—that were more sophisticated than the “one chart or two” provided by Orion—and that the Able Danger charts, “both soft copy and hard copy,” were destroyed. Kleinsmith should know the fate of the Able Danger charts better than anyone, since he, in reluctant obedience to orders from DoD lawyers, personally destroyed the Able Danger database.

Why does the Inspector General believe that the Orion chart is the “Mohammed Atta” chart, even though the chart does not show Atta, and even though the Able Danger team denies that this is the correct chart? The Inspector General relies on the memories of the Able Danger witnesses about details of the chart to conclude that the Orion chart is the correct chart. According to the DoD Inspector General report, “The evidence indicated that the chart recalled by these key witnesses is the chart [by Orion] at Figure 1 of this report—Dr. Preisser’s denials notwithstanding. It bears the title mentioned by CAPT Phillipott in a contemporaneous memorandum and contains information described, in various ways, by LTC Shaffer and Dr. Preisser.”

As to the existence of a chart produced by Able Danger showing Mohammed Atta, the Inspector General asserts that the collective memories of the Able Danger witnesses “were in error.”

The reasoning employed by the Inspector General to conclude that the Orion chart is the correct chart, and the object of a collective false memory of Mohammed Atta by the Able Danger witnesses, is clearly erroneous. The Inspector General relies on the memories of the Able Danger witnesses concerning trivial details to single out the Orion chart, but rejects their memories as in error and unreliable on the central matter of the existence of a chart produced by Able Danger showing Mohammed Atta. Logically, the Inspector General cannot have it both ways, cannot deem the Able Danger witnesses reliable for purposes of identifying the correct chart, but unreliable when they disagree with the Inspector General.

Moreover, the Inspector General’s analytical basis for singling out the Orion chart is highly dubious. The details provided by the Able Danger team, such as the chart title, the arrangement of photographs, colors and etc., were common to charts produced by the Able Danger team too. After all, the Able Danger and Orion charts were both serving the same purpose, attempting to illustrate visually the achievements of the Able Danger data mining operation. It is commonplace in Intelligence Community analysis, indeed in most analytical endeavors, for charts, outlines or other illustrations to evolve and be replaced with more sophisticated versions, richer in data and analysis, as the analytical enterprise progresses.

Obeying Occam’s Razor—the simplest explanation is the most logical—the most logical explanation for the conundrum of the Mohammed Atta chart is not collective false

memory, or collective false witness. The Able Danger team superceded the work of Orion and produced their own chart showing Mohammed Atta, that was later destroyed along with the rest of the Able Danger database. This theory is consistent with the testimony of the Able Danger witnesses, and with the known fact that Able Danger should have collected data on Mohammed Atta and other 9/11 terrorists, as that data existed—and still exists—in other U.S. government databases that were among the targets of Able Danger collection.

The Inspector General report bases its entire case upon the fiction that the Orion chart is the correct chart, allegedly the object of a collective false memory about Mohammed Atta. Based solely on this erroneous conclusion, the Inspector General dismisses the achievement of Able Danger in providing early warning of the 9/11 attacks, and slanders the reputation of the Able Danger team.

The DoD Inspector General report falsely claims the Able Danger witnesses are not credible, and is so clearly hostile and biased against those witnesses that it concocts false “evidence” to discredit them. Bias in the Inspector General report is notable from its very beginning, where the Inspector General fails to provide brief biographies or background descriptions of the Able Danger witnesses, whose alleged lack of credibility is crucial to the Inspector General’s case. CAPT Phillipott was entrusted to run the Able Danger project because of his stellar performance as an Annapolis graduate and serving naval officer, and has now been promoted to command a destroyer. LTC Shaffer ran another classified operation associated with Able Danger called “Stratus Ivy,” the details of which are still classified. He won a Bronze Star conducting lethal intelligence operations against Taliban and al Qaeda terrorists in Afghanistan, and was recently promoted to command a U.S. Army battalion. Dr. Preisser is a double Ph.D. who served in the U.S. Army’s Land Information Warfare Activity at Ft. Belvoir, where she invented the computer software for data mining against al Qaeda, that made possible the Able Danger project.

These facts about the Able Danger witnesses do not support the Inspector General in making a case against their credibility.

The Inspector General report asserts (p. 34), “While several key witnesses—primarily LTC Shaffer, CAPT Phillipott, and Dr. Preisser—claim to have seen Mohammed Atta’s picture *on an Orion chart* that was provided to CAPT Phillipott in January/February 2000, their recollection was not credible. The conflicts and inconsistency in their testimonies, coupled with other evidence concerning the charts at issue, provided overwhelming rebuttal to their claims.” (Italics added.)

Yet the Able Danger witnesses do not claim to have seen Mohammed Atta’s picture on an Orion chart. They saw Atta on a chart produced by Able Danger. They also downplay the importance of the chart, as it was merely to illustrate the detection of Atta as an al Qaeda operative by the Able Danger data mining operation and his being cataloged in the database.

As noted earlier, the Inspector General ignores denials by the Able Danger witnesses that the “Atta Chart” was made by Orion and concludes instead—based on very dubious reasoning and no real evidence—that the “Atta Chart” was made by Orion, did not in fact depict Mohammed Atta, and the non-existent picture of Atta on the Orion chart is a collective false memory by the Able Danger witnesses.

In a breathtaking example of circular reasoning, the Inspector General condemns the credibility of the Able Danger witnesses because they disagree with the Inspector General theory that the “Atta Chart” is an erroneous memory of the Orion chart, a theory that itself is erroneous, but is treated by the Inspector General like known truth. Thus, LTC Shaffer, Dr. Preisser, and Mr. Smith are judged non-credible by the Inspector General because they would not change their testimony about seeing Mohammed Atta on an Able Danger chart, and refused to embrace the Inspector General’s theory about the Orion chart. Smith had the “Atta Chart” posted on his wall and saw it every day for over a year, but even his memory is condemned as unreliable by the Inspector General. Indeed, a pattern evident in the Inspector General report is that the more strenuously a witness disagrees with the Inspector General about the Orion chart theory, the more harshly they are condemned.

However, neither is there salvation for Able Danger witnesses who agree with the Inspector General’s theory about the Orion chart. When CAPT Phillipott begins to doubt his own memory and concedes that the Inspector General might be right—under repeated cross examination where the Inspector General falsely claims that their theory about the Orion chart is proven fact—Phillipott’s credibility is condemned, his memory judged unreliable, by the Inspector General, along with the other Able Danger witnesses.

The Inspector General, in order to support their assertion that the Able Danger witnesses are “unreliable” and “not credible,” offers “summaries” of their interrogations of the Able Danger witnesses. Full transcripts of the interrogations would be far more revealing and objective evidence bearing on the legitimacy and professionalism of the interrogation process, but are not provided because they would not serve the Inspector General’s purpose. The “summaries” of the interrogations are carefully edited by the Inspector General to highlight every apparent inconsistency in testimony, no matter how trivial, in an effort biased to impugn the credibility of the Able Danger witnesses.

Conspicuous by its absence from the transcripts are the queries and cross-examination of the Inspector General. A skilled interrogator can easily “set up” a witness to provide apparently inconsistent or contradictory testimony, especially when the interrogator has the advantage of editing the transcripts afterwards.

For example, consider the Inspector General’s interrogation of CAPT Phillipott. The Inspector General report, in their summary of the Phillipott interrogation, gives this admission of error by CAPT Phillipott, that is by far the strongest evidence offered by the Inspector General favoring their theory that the “Atta Chart” is a false memory:

CAPT Phillipott testified, “Well, I mean, obviously there’s a

compelling amount of evidence that would make it appear that I did not see Mohammed Atta. And I will absolutely grant you that based on what you're showing me my recollection could have been wrong. But I still need to stress that if I told you that I didn't think I saw Mohammed Atta's face, that in fact would be lying...I honestly believe that I saw Atta on the chart. (p. 18)

Reading between the lines of the Phillpott interrogation, it is obvious that the Inspector General's cross-examination was not an objective search for truth, but an effort to convince Phillpott that there is "a compelling amount of evidence" supporting the Inspector General's theory about the Orion chart. The Inspector General tried hard to make CAPT Phillpott doubt himself, and succeeded, but only because they misrepresented themselves as "honest brokers" in fact finding. CAPT Phillpott mistakenly trusted the Inspector General who was, in reality, his prosecutor.

Most of the Inspector General's case attacking the credibility of the Able Danger witnesses is based on their trivial errors of memory over exact dates and precise events found during the interrogation. However, few people are likely to remember such details associated with events that transpired a half-decade ago.

In many cases, the Inspector General report attempts to create the impression of serious contradictions or lapses in memory between the Able Danger witnesses, where none exist. For example, the Inspector General makes much of a "contradiction" between LTC Shaffer and Dr. Preisser over their memory of meeting at a Starbucks's coffee house, where LTC Shaffer remembers Preisser showing him the "Atta Chart." They both remember meeting at Starbucks shortly after September 11, 2001. But Dr. Preisser, during her interrogation, denied bringing a large paper "chart" to Starbucks:

Preisser: "Starbucks had those little tables. That chart, I would have had to have rolled out. I can't imagine myself doing that." (p. 28)

But Dr. Preisser did have a "briefing on the computer not a hard copy chart" that she did likely show LTC Shaffer at Starbucks. So the "contradiction" between LTC Shaffer and Dr. Preisser over the Starbucks meeting is not really a contradiction at all, but a strained attempt by the Inspector General to create the appearance of a contradiction over the definition of the word "chart" as used by LTC Shaffer and Dr. Preisser.

The Inspector General report routinely excludes exculpatory evidence supporting the credibility of the Able Danger witnesses. For example, the Inspector General strongly implies that LTC Shaffer lied about DIA accidentally—and illegally—mailing classified materials and a U.S. government Global Positioning System (GPS) to Shaffer when returning his personal property. The Inspector General implies that LTC Shaffer stole the GPS and put it in the box received from DIA in order to make DIA look incompetent. Yet the Inspector General report fails to mention that two attorneys witnessed Shaffer receiving and opening the box and discovering classified material and the GPS from DIA.

The Inspector General report excludes sworn testimony from the attorneys supporting Shaffer.

The Inspector General report makes a solitary recommendation, that strongly suggests LTC Shaffer is telling the truth about receiving classified material and a GPS from DIA, even though the Inspector General does not want to admit it. The Inspector General report, Section VII “Recommendations” comprises this single sentence: “We recommend that the Director, DIA, review procedures concerning disposition of personal belongings when abandoned by DIA employees and procedures for rendering military performance reports to ensure that Service requirements are met.” If Shaffer is lying about receiving classified material and a GPS from an incompetent DIA, why does the Inspector General recommend a review of DIA procedures?

The Inspector General report employs a double standard in treating Able Danger witnesses on the one hand, and witnesses hostile to the Able Danger team on the other. For example, the Inspector General speculates why one or more of the Able Danger witnesses might lie about detecting Mohammed Atta before 9/11. The Inspector General report never speculates why those hostile to the Able Danger witnesses might lie. Indeed, two of the hostile witnesses, Dieter Snell of the 9/11 Commission and COL. Worthington, are praised by the Inspector General report, as if their testimony is unimpeachable. Yet Snell and Worthington would suffer damage to their professional reputations, and in the judgment of history, if the Able Danger witnesses are believed.

The Inspector General report attempts to discredit two of the most important Able Danger witnesses—LTC Shaffer and Dr. Preisser—by suggesting that they played merely minor roles in the Able Danger program, a gross misrepresentation of the facts. Although CAPT Phillipott, who ran the Able Danger program, describes LTC Shaffer as an important member of the team, the Inspector General gives equal weight to an anonymous source describing Shaffer as merely an errand boy. The Inspector General simply asserts, without proof, that Dr. Preisser’s role in Able Danger was minor—neglecting to mention the fact that she invented the software for data mining against al Qaeda that made Able Danger possible. It is no exaggeration to say that the Able Danger project would not exist were it not for Dr. Preisser’s expertise.

The Inspector General makes much of the absence of many witnesses able and willing to corroborate the testimony of the Able Danger team that they detected Mohammed Atta before 9/11. But as Able Danger was a small, deeply classified program, there would not be many more witnesses than those principal actors in the Able Danger program who have already come forward. Nor is it surprising that other witnesses may be reluctant to volunteer, since the Inspector General vilifies the character of every witness supporting the Able Danger team.

Finally, the Inspector General has not earned the right to challenge the credibility of the Able Danger witnesses by exercising due diligence in the conduct of their investigation. For example, the Inspector General did not exercise its power to subpoena witnesses and evidence. Cooperation with the Inspector General by departments, agencies, and

individuals was voluntary. The Inspector General did not polygraph witnesses, including hostile witnesses. The Inspector General allowed hostile witnesses to offer testimony anonymously. The Inspector General failed to discover, and then ignored discovery by the U.S. Congress, of pre-9/11 data in other U.S. government databases on Mohammed Atta, that confirms the allegations of the Able Danger team. The Inspector General failed to discover, and then ignored discovery by the U.S. Congress, of at least one more witness, a former member of the Able Danger project, who confirms the detection of Mohammed Atta about one year prior to 9/11.

Conclusions and Recommendations

The Department of Defense Office of the Inspector General report, “Alleged Misconduct By Senior DoD Officials Concerning the Able Danger Program And Lieutenant Colonel Anthony A. Shaffer, U.S. Army Reserve,” shows strong evidence of bias and is deeply flawed analytically. Therefore, the DoD Inspector General report is untrustworthy to serve as a basis for public policy or history regarding the Able Danger affair.

This critique of the DoD Inspector General report does not constitute a point-by-point or line-by-line rebuttal, although such a rebuttal in detail is certainly possible. The errors in methodology and analysis found in the Inspector General’s treatment of the key issues of the Able Danger affair are repeated and replete throughout the Inspector General’s report, including on issues of lesser consequence, such as the reprisal by DIA against LTC Shaffer for revealing to Congress that the Able Danger program detected Mohammed Atta before 9/11.

On the key issues of the Able Danger affair, this critique has demonstrated that the preponderance of evidence points to conclusions exactly opposite those drawn by the DoD Inspector General. Contrary to the Inspector General, the preponderance of evidence indicates the Able Danger team did detect Mohammed Atta and other 9/11 terrorists about one year prior to the terrorist attacks of September 11, 2001. Contrary to the Inspector General, the preponderance of evidence indicates that the Able Danger program did make a chart depicting Mohammed Atta. Contrary to the Inspector General, the preponderance of evidence indicates that the testimony of the Able Danger witnesses to the U.S. Congress is credible and true.

The DoD Inspector General having failed in their task to provide a credible and trustworthy investigation of the Able Danger affair, it is now the responsibility of the U.S. Congress to exercise its oversight powers and conduct an investigation. The DoD Inspector General should be included as an object of that investigation, as their report is apparently a cover-up for senior officials at DoD, and has made the Inspector General part of the Able Danger affair.