ORAL STATEMENT OF LTC ANTHONY SHAFFER.

BEFORE THE SUBCOMMITTEE ON NATIONAL SECURITY
HOUSE GOVERNMENT REFORM COMMITTEE

TUESDAY, FEBRUARY 14, 2006

"REMOVAL OF SECURITY CLEARANCE IN RETALIATION FOR PROTECTED DISCLOSURES OF ABLE DANGER"

Mr. Chairman, distinguished members of the Committee, thank you for the opportunity to appear before you and offer my comments on issues surrounding the use of the security clearance system as a method of intimidation and retaliation; and in my case, the removal of my security clearance based on my protected disclosures of information to the 9/11 Commission and to Congress regarding Operation ABLE DANGER.

This is a topic of extreme importance to our national security as we are at war and must be focused on neutralizing the threats to the United States – those that are both foreign and domestic.

Many of us take seriously our oath of office to support and defend the constitution against all enemies' foreign and domestic – we demonstrate our commitment by decades of service to this country trying to conduct operations to ensure our citizens are protected.

There are other officers within the bureaucracy who abandon their oath of office and instead become focused on a strategy of self preservation and obfuscation of accountability. A culture now exists in which leaders with this abhorrent set of values are in charge of large portions of the intelligence community; it was their missteps before 9/11 that materially contributed to our failure to detect and neutralize the 9/11 attacks.

While disclosure of ABLE DANGER information to the 9/11

Commission and to members of Congress was not the only factor in the revocation of my clearance, it is my judgment, and the judgment of others that it is the primary reason that DIA made such an obvious, unjustifiable effort to remove and silence me. It is notable that I have been requested by your colleagues on the House Armed Services Committee to provide Top Secret/closed testimony on the ABLE DANGER issue tomorrow.

Let me be upfront here – I am no boy scout – I was not hired to be an intelligence officer because I hang out at the Christian Science Reading Room. My job is to get information using tried and true intelligence methodologies – techniques that go back to the dawn of civilization. I've been trained to take risks – to create high risk/high gain operations, which I did successfully for 20 years.

I served in DoD with distinction as a Military Operations Training Course (MOTC) trained case officer. I graduated from "the Farm" in 1988 at the top of my class – training that costs, per student, upwards of a million dollars.

My awards and accolades have been provided to the committee for your background; according to my legal counsel, until I disclosed the ABLE DANGER information I was a "rock star". DIA leadership, using issues and information they manufactured, arbitrarily removed me from active case officer status in Jun of 2004.

It was in my work as the chief of a DIA special mission task force that I became involved with ABLE DANGER. My officers and I were working at the cutting edge of technology and DoD black operations. Most all of my operational record remains classified as most of the operations, and the capabilities that we established, are still on going and are being utilized in our war on terrorism.

After 9/11, I continued my service to the country by accepting

recall to active duty and taking command a DIA Operating Base and volunteered for two deployments to Afghanistan. It was during my first tour to Afghanistan in October 2003, that I made my first protected disclosure to Dr. Phillip Zelikow, the staff director of the 9/11 commission, regarding ABLE DANGER and the failures of DIA and other DoD elements to maximize the intelligence and promise of the project.

I wish to emphasize four key points.

1) I have made protected disclosures, starting in October 2003, regarding the project known as ABLE DANGER – a pre-9/11 operation designed to identify and conduct offensive operations against Al Qaeda. It was these protected disclosures, first made to the 9/11 Commission in 2003 that I believe is the basis for DIA's adverse action against me. In these disclosures I revealed the fact that there were internal DoD and DIA failures regarding pre 9/11 intelligence handling contributed to the failure to detect and neutralize the attack. As a result, after I notified DIA leadership in January 2004 of my disclosures to the 9/11 Commission staff, DIA officials used "administrative issues" to suspend my security clearance in March 2004. These issues, according to a senior Defense Security Service (DSS) investigator who reviewed and submitted a rebuttal to the allegations, have "no security relevance" in accordance to current DoD security policies, an therefore should not have been used as justification to first suspend my clearance. DIA expedited the permanent revocation of my security clearance – in record time according to my attorney - after a second set of protected disclosure to Congressman Curt Weldon. DIA chose to permanently revoke my clearance in September of last year – this revocation coming within 48 hours of my scheduled testimony before Senator Specter's Senate Judiciary

Committee.

2) The three allegations DIA used to first suspend my clearance in March 2004 and then justify its removal are all "administrative" issues – not criminal. In a thinly veiled attempt to criminalize them, DIA leadership attempted, and failed, to tie the allegations to the Uniformed Code of Military Justice (UCMJ). There is a clearly defined process for handling criminal issues – the allegations DIA made against me never came close to that level. In addition, they were never, according to DoD's personal security guidelines, supposed to be used for clearance adjudication – and yet they were. The three allegations used by DIA as the basis for their adverse, career ending action are:

   a. Undue award of the Defense Meritorious Service Medal (DMSM). DIA claimed that I received a major decoration unlawfully – despite the fact that the award was for, among service in other reserve leadership positions, my work on ABLE DANGER. Though I provided classified officer performance evaluations and other background documents that showed the justification for the award, the information was ignored by the DIA IG and DIA Security. There was no evidence in the DIA IG report that I did anything wrong – to the contrary - it showed I followed the guidance I was given by my chain of command.

   b. Misuse of a government telephone adding up to $67.00. While in charge of a DIA operating base in which I was responsible for millions of dollars of equipment and the activities of more than a dozen people, the government phones were issued to my unit this was the only adverse issue that could be found.

During an 18 month period, I would periodically program the government phone to forward phone calls to my personal mobile phone – for a .25 cent charge for every call forwarded. This added up to $67.00.

c. Filing a False Voucher for $180.00. I attended Army training a Ft Dix, New Jersey that was required for my promotion to lieutenant colonel. Despite this being a wholly legal claim – one processed through the DIA financial system – and one that, had it been rejected by the accounting system, I could have claimed as a professional deduction on my taxes – DIA's IG falsely stated that it was an illegal claim because I was authorized to attend the Command and General Staff School at "no expense to the government".

d. Summary of allegations – the total alleged loss to DoD was less than **$250.00** – that is right **$250.00**. The DIA IG inspector, Mike Kingsley did falsely and without evidence, makes conclusions on his investigation in which the evidence did not support.

e. DIA security then took the false DIA IG allegations and embellished them. DIA Security went about resurrecting allegations that were long ago, favorably to me, resolved – some dating back as far as high school (which was a self admission on a 1986 polygraph exam) and adding in recent inter-office politics that were not of security relevance to attempt to justify their action.

3) The DIA allegations were refuted – repeatedly – on three separate occasions – the documents have been provided to your committee staff. Refuted first in my official written statement in April 2005, again in my official oral statement made the first week

of Jun 2005 and again in my final appeal in November 2005 – all made to no avail. Specific written witness statements were made by senior officers who supervised me during the period – including both direct supervisors and my commanding general of the period. These written statements were submitted to DIA and did fully refute all the allegations – and they were ignored. In one of the most egregious rejections, they rejected the DSS senior special agent's written statement that she had investigated and refuted all negative allegations against me for the period 1995 and before.

4. Despite the Army "clearing me" of wrongdoing, and promoting me to lieutenant colonel, DIA accused me, in writing, of 'lying' to them about this fact; you now have the documents. Let it be stated for the record again today, the Army has taken no punitive legal action against me on these allegations and I was promoted, as scheduled, to lieutenant colonel. DIA security leadership continues to live in some parallel universe in which what they decree is so, no matter the facts of a given issue.

Chairman of the HASC, Congressman Duncan Hunter has requested, and DoD is now conducting, investigations regarding DIA's retaliation against me and other related investigations into the ABLE DANGER issue.

CONCLUSION

I became a whistleblower not out of choice, but out of necessity. Many of us have a personal commitment to the truth – and a commitment to defend the country, not by simply stating our loyalty, but by action; by going forward into combat if called upon to do so; by going forward to expose the truth and wrongdoing of government officials who before and after the 9/11 attacks failed to do their job.

I have suffered both public and private personal attacks – attacks that we cannot easily trace back to DIA, but suspect them as the origin.

There is no protection for whistleblowers – this needs to be corrected. The fact that DIA could use superficial, administrative issues, and then go back in my security file and resurrect favorably resolved issues demonstrates clearly, in my case, the willingness and ability of senior officials to abuse the system. Why do they do this? Because they can – there is no oversight on them or the process. There must be a mechanism instituted to allow Congress to receive critical information to support their oversight role. There must be accountability and, for those who engage in retaliation, punishment and removal.

An independent DoD Office of Inspector General that reports to Congress and not DoD leadership may be an answer.

While there is a need to legitimately hold individuals accountable who hold security clearances, the current system allows for too much subjectivity – and, as in my case, abuse. Independent checking mechanisms should be instituted. As part of the clearance process – a "must issue" standard should be prepared in which if a person has no criminal record or questionable associations, a clearance must be granted. Further, to account for and punish 'real' wrongdoing – should someone with a clearance be convicted for DUI or other minor offenses - there should be a system of defined, and impartial, penalties. A senior executive should receive the same penalty for a minor offense as a junior non commissioned officer guilty of the same issue.

Thank you. I will be happy to answer any questions you might have.