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Thomas Drake

Thomas Drake served as a senior executive at the NSA from 2001 to 2008. He brought his concerns about wasteful spending at the NSA and the government's surveillance program to a Baltimore Sun reporter; he was later charged with leaking classified information under the Espionage Act, but the charges were ultimately dropped. Drake spoke to FRONTLINE's Jim Gilmore and Mike Wiser on Dec. 10, 2013.

Explain the situation 9/10, before 9/11, and what the worries are. Is there an understanding of a threat? What are they looking for you to do?

... The arrangement was that I would shadow the number three person at the NSA. It was actually my direct report. And that was Maureen Baginski, the then-signals intelligence director of NSA.

My first day reporting on the job to her was the morning of 9/11. So where was I on 9/10? Well, I'd been hired in. My actual title was senior change leader. ...

It was clear as we went into the early 21st century that not only was NSA having great difficulties meeting the challenges of the digital age or the Internet age, but they were being increasingly made irrelevant. Stakeholders in Congress and elsewhere began to put extraordinary pressure on them about "You need to remain relevant." ...

So I'm brought in to help effect change across the board. There was about a dozen of us hired under a special program that was actually led by [Director] Gen. [Michael] Hayden. ...

NSA was in kind of its normal mode. There was no anticipation of a 9/11, although having said that, as [CIA Director George] Tenet had said three years earlier, the system was blinking red. It had been known for quite some time that something was afoot, but no one had any specific information; no one had any specific knowledge. ...

[↑ Return to top](#)

So take us to that day. You arrive.

I arrive at O-dark-thirty, essentially O-dark-thirty in the morning. The arrangement was that I would show up around 5:00. Maureen Baginski was an extremely, very early bird, to put it that way. ...

So I'm in her office, and it was my first day with her. We had made the arrangement that I would shadow her for about a month or so, just to

gain an understanding of the myriad responsibilities that she had, as well as all the different meetings and interactions she had with the workforce.

The only restriction were those types of sessions that involved counseling or the meetings that took place at the very, very top tier of NSA, and that's -- we're talking about the top four, five or six people, so an executive session with Gen. Hayden and the deputy director. Other than those two types of sessions or meetings, I was with her. That was the agreement. ...

And I remember -- this is a frozen moment for me -- early that morning. I had already gotten there as -- you know, this is September, so it was still dark, and the dawn was just breaking. But it was crystal-clear dawn. I just remember how absolutely crystal clear it was, it turns out, up and down the East Coast that day.

We were actually in the Legislative Affairs Office. She was actually scheduled to give a briefing to basically a technical advisory group from the Senate Select Committee on Intelligence. ... And I remember, at a point during the briefing, one of her executive assistants actually opened up the back door that goes into the inner offices, which -- and there's windows on the outside of the building; it was one of the main buildings at NSA -- saying some freak accident, some plane had hit one of the World Trade Center towers. ...

Well, not too long after that, the door opens up a second time, and she said the second World Trade Center tower has been hit by an airplane. I knew immediately that America was under attack. I actually said that; I exclaimed that. I stood up. The door opens into the inner hallway.

The next four months are a blur. ...

[↑ Return to top](#)

What is your job? ...

I was hired in as a senior change leader, and I was in the process of beginning to build a communications and change leadership team. And because of the crisis, I was also essentially the de facto communications officer for the signals intelligence directorate, approximately 10,000 people strong -- 6,000 in the local area and another 4,000 overseas in various far-flung outposts, both within the United States and elsewhere.

I took on the task of building a mechanism, partnered with other teams that I had access to, to put together a website, an enterprise-wide website where people would come, because they had all these crisis response teams, and people needed to keep up to date as to what was going on. So that was part of my job.

Part of it was just making sense of all this. Part of it was I was tasked to find the very best, because this was a Tenet memo, George Tenet, the then-CIA director. He sent out an intelligence community -- oxymoron -- but an intelligence-wide community memo: "Whatever you've got in the labs, whatever you've got in your agency, even if it's not operational, put it into the fight. We need it. It might help us. We need to deal with the

threat." ...

So I partly was tasked to go out and find these answers, solutions, things we could put in the fight -- analytic mechanisms, collection mechanisms, things people had been working on -- part of it to deal with the vast amount of data. How do you make sense -- this was the huge, central, what they call one of the challenge problems of the day -- how do you make sense of this extraordinary stream of information? And it just keeps piling up, unendingly so. ...

[↑ Return to top](#)

So you come across a group of guys in a skunkworks sort of group. What do you find, and why do you think there's an answer there?

Well, one of many, many. There was probably several dozen small projects, skunkworks projects, that I found out about.

Now, I actually had known about ThinThread, which was a flywheel program, developed for \$3 million from within the SIGINT Automation Research Center, otherwise known as the SARC -- about a dozen or so combined, mostly government with a few contractors.

They actually took on the challenge problem that had been laid down back in the '90s, several years earlier, and said: "You know what? We're going to solve this." They were engineers; they were software and systems engineers, IT specialists and had analysis expertise. We're going to take this on. We're going to figure out how do you make sense of large amounts of data. And it doesn't matter how you scale it. You can have terabytes of information; in fact, the more the better.

They took that challenge on and through multiple iterations began to solve the problem. And they were ready to go operational, worldwide, in late 2000/early 2001, although in August, interestingly enough, that system had already been rejected by NSA. This is about a month prior to 9/11.

So I renewed my connection. The reason I say renewed, I had actually analyzed the software for a critical component of ThinThread three years earlier. That's when I first met Bill Binney. ...

Who's Bill Binney?

Bill Binney is an extraordinary individual. He's probably one of the best crypto-mathematicians NSA has ever had. And he was the brains, the algorithm brains, the crypto brains behind ThinThread.

He developed the heart and core of the algorithms that were necessary, not just to collect and analyze vast streams of data in an extraordinarily efficient manner -- very different from the traditional approach by the way; actually it was revolutionary in terms of information. But he also had developed encryption algorithms so as to ensure that when you're collecting lots and lots of data, that if you knew that it was U.S. person-related, it would be automatically encrypted. That was part of the design of ThinThread. ...

[↑ Return to top](#)

So now I'm going out after 9/11, based on the Tenet memo, and I was actually charged at NSA, charged to take the lead to find these projects, ones that weren't operational, ones that were in test mode, ones that were being piloted, and one of those was ThinThread.

And in those short days and weeks after 9/11, I put together a two-page classified execution plan, implementation plan to put ThinThread into the fight, and I presented it to Maureen Baginski. And it was rejected.

Let's take that slowly. You write or present this document. Is it electronic?

Actually, it was electronic, but I actually had a meeting with her where I physically carried and formally presented her with the implementation plan to actually place ThinThread at the most significant counterterrorism sites. And we knew then, even as early as, well, right in September 2001, it was the 18 most critical counterterrorism sites in which we would actually deploy ThinThread.

... What did she tell you?

What was interesting, none of her responses are ever electronic. None of her responses were in a form that would be recorded or saved. And remember, I'm also finding out, because people are coming to me and I'm discovering, even independently of the ThinThread and SARC folks, that the United States in the deepest of secrecy at the highest level of government had unleashed the NSA and turned its extraordinary power on the United States directly, in the deepest of secrecy.

What are you hearing? How do you hear it?

I'm finding out equipment is being repositioned to surveil U.S. networks without any warrant. Blanket.

What do you think?

... In essence, NSA was simply being turned on its own country under the banner, label of an excuse, justification of 9/11. This was early on. This is before other formal mechanisms are being put into place. This is actually, I'm finding this out -- you have to understand, it's in the first few weeks, right after 9/11. It's actually before I had my moment-of-truth conversation with the lead attorney at NSA the first week of October. ...

And remember, I'm already getting information. I have people coming to me with grave concerns about: "What are we doing, Tom? I thought we're supposed to have a warrant. I'm being directed to deploy what's normally foreign intelligence, outward-facing equipment, I'm being now directed to place it on internal and accessing internal NSA networks." ...

What was the response of Baginski when you brought her the ThinThread document that proposed this as an answer, especially because it had the domestic protection built in?

... She says, "They've gone with a different program." And the way she did that when I pressed her hard, I said: "You realize, Maureen, we are in abject violation of FISA, which means we're in violation of the Fourth Amendment, which means we're in violation of the Constitution. What are

we doing? We have the solution at hand. We have the solution. It will go after the threat. It will provide superior intelligence and protect U.S. persons. There's no need to violate FISA or the Fourth Amendment. What are we doing?"

And when I pressed hard, I even -- she would refuse to see me. I ended up getting this -- she had kind of this interesting cursive scrawl. People became well known with it -- when she just would write personal notes or memos, it was kind of a medium, like it was a thin, a little bit bigger than thin, but it was a smooth marker. It was one of those pen markers, and she had her own distinctive way of writing. It was kind of a modified cursive. And she said, "They've gone with a different program."

And you think?

And I knew immediately when she said a different program that it was Stellar Wind. I already knew that. There was no other program they could be using except that one. There was no other program. ...

[↑ Return to top](#)

You're having conversations with Binney and such, as you're all hearing rumors about what's going on --

More than just rumors.

-- and you're also finding out -- or he's finding out, or however it happens; tell me -- that ThinThread has become the backbone or a part of, or whatever, an extremely important part of this new program which is the basic program that they're using, but they've stripped out all of the individual American protections. How did you find out? What were the conversations like, and what did it mean?

Well, this was part of the horror. ... We're finding out that an earlier subprogram that's now part of ThinThread called Mainway -- which the algorithms were developed by Bill Binney, an extraordinary program that did call chaining -- it would actually link phone numbers together as they're being collected, and it maintained the fidelity and integrity and what they call data normalization as you're collecting ultimately millions and millions upon millions of phone calls.

And there were protections. You just couldn't put in U.S. numbers. And we absolutely knew what was a U.S. number and what was not a U.S. number, what was clearly foreign and what was U.S. Absolutely clear on that. And they stripped all the protections, and they just opened up the spigots wide.

This is part of what I discovered, in my horror, that what was happening is NSA had gone to the Verizons, the ATTs and the Sprints of the world, and you had other telcos, and were getting access and having provided to them bulk-copy records of every single phone number in the United States under those.

And the conversations you were having together were what?

We're like, everything we worked for, everything we stood for, the oath, the oaths that we had all taken collectively, we're just seeing it all melt

before us. ...

And it became crystal clear in those few weeks after 9/11 that NSA had no intention of deploying ThinThread in any capacity, except to use the engine, the Mainway engine, that had already been developed, had been in place for a number of years, and just use that to absolutely violate the Fourth Amendment rights of millions and millions of Americans, because it was sweeping up all these numbers, no warrant, no probable cause. ...

[↑ Return to top](#)

So you go to the NSA General Counsel [Vito] Potenza.

Yes, but it's critical to understand, I realized that very first week in October, not knowing at the time that there was a secret presidential directive, but I'm already now full face, right? It's in my face what we're doing. I made one final attempt, one final appeal to Maureen Baginski, and she demurred, and she simply said, "Call the Office of General Counsel," which I did. And I said, "I want to speak to the lead attorney." She'd given me the name. "I want to speak" -- it was Vito Potenza.

And it's arrested moment, I remember; it was this side of a half-hour conversation with him on the phone, and it's extraordinarily chilling, because as soon as I hung up the phone -- and I'll share what he told me -- I was thrown back to the 1970s. The hair literally was up on the back of my neck, because he proceeded to tell me: "You don't understand. All the lawyers have approved it. It's legal. The White House has authorized NSA to serve as the executive agent for 'the program.'" They always said "the program." The program was Stellar Wind. The program later became known, for convenience, when the government was desperate to protect the domestic-to-domestic blanket collection, as the President's Surveillance Program [PSP]. ...

I pushed back as hard as I could. I said: "You're telling me that under the excuse of 9/11, we're just going to abandon the Constitution? The 2003 legal regime is out the window?" He said: "You don't understand. We are under emergency conditions. Extraordinary, extraordinary means are required to deal with the threat. We just need the data."

Your frustration is growing.

And I pressed harder. Well, frustration is growing; this is the first week in October. And then the most chilling -- I know often I've said this part of the conversation -- "Don't ask any more questions, Mr. Drake."

It was clear in that moment I was flagged, because I'm obviously evidencing to an attorney, the lead attorney by the way, who advises Hayden directly at the Office of General Counsel, the lead attorney. Obviously I'm dissenting. I have prima facie evidence. I'm bringing it forward on the phone to his attention, and he's telling me it doesn't matter anymore; we already have our authority from the White House. ...

[↑ Return to top](#)

When do you go to Diane Roark? Who's Diane Roark? Why do you

go to her?

Diane Roark, an extraordinary American. She was a professional staffer on the House Permanent Subcommittee on Intelligence. She actually had the NSA account, meaning that staffers are assigned to the different agencies, and NSA is a very large account. So she had the NSA account, and had had it since 1997. ...

She was one of the individuals, one of the individual staffers -- and I say plural -- that I contacted after 9/11, not long after 9/11, regarding what I was hearing and what I was discovering was occurring with respect to the secret surveillance programs.

And what was her response?

As you might imagine, she was quite taken aback, that under -- as much as 9/11 was an extraordinary event with 3,000 people murdered, it didn't mean that we just unchain ourselves from the Constitution. ...

So what motivates Diane specifically, and why does she go on the warpath?

Well, she'd been on the warpath about a lot of things at NSA, truth be told. In fact, she was well known at NSA. Workforce cheered her, but management/leadership absolutely hated her with a passion, loathed her, because she held up a mirror, and she did her job. She was providing real oversight. ...

What is she doing, and what's the response she's getting?

Obviously 9/11 triggered a whole lot of questions: What the heck happened? Why didn't we see this? Could we have prevented it? And it wasn't just the later investigations. These are questions being asked in the immediate aftermath. ... It was clear that she herself, at least in the space of NSA, was asking really hard questions about what had happened.

Of course, I'm back-channeling with her with what else I would discover. That went on for several months.

Now, she retires in April 2002. Now, the guys -- Bill Binney, Kirk Wiebe and Ed Loomis -- retire at the end of October 2001. I took up the mantle, and I became the executive program manager for ThinThread. I had not given up; I was not going to give up. I knew there was too much at stake. In spite of all the things I had discovered, in spite of all that I had found, I was not going to give up.

[↑ Return to top](#)

And we're probably going to get to that, because there's something that became even more horrific that I discovered as a result of serving as the executive program manager of ThinThread a few months later. ...

And what did you find out?

Extraordinary amounts of information that NSA didn't even know it had in terms of Al Qaeda-associated movements, vast amounts. ...

We're talking about critical information about the safe houses, about other parts of Al Qaeda-associated movements that were actually resident in these databases the NSA didn't even know they had. We're talking about indications and warning information pre- and post-9/11. ...

Now, we reported this. I did, because that was my responsibility as the executive program manager. The reaction was unfortunately tragically predictable. They shut the program down. ...

What month is this?

This is in February, early March now, of 2002. ...

[↑ Return to top](#)

September 2002: Binney, Wiebe, Roark file a confidential complaint with the IG at the DoD [Inspector General at the Department of Defense].

They're the signatories. I'm the unnamed senior official. Now, they're all retired; I'm selective duty. They wanted me to sign, but I knew if I signed, because I was already flagged, I knew if I signed, that I would be even more marked. And I said, "I'll fully cooperate with the investigation; you can tell the investigators that," because Kirk's the one that actually formally filed it as a hotline complaint. ...

We filed the formal complaint with the Department of Defense, Office of Inspector General. The complaint was about the billion-dollar boondoggle of Trailblazer and the fact that there were under the Federal Acquisition Regulation -- and remember, we had to submit this as an unclassified hotline complaint -- that under the Federal Acquisition Regulation, NSA had been in abject violation because there were alternatives. There was alternatives that already solved the heart-and-core requirements for Trailblazer, OK? That was ThinThread. ...

So we filed the hotline complaint, and they take it under advisement, a formal process for this. They determine that, based on their preliminary investigation, that, yes, they're going to open up what they call a formal audit. They announce that in December 2002, and I was notified in early 2003 to come before them as a material witness.

Why the complaint on specifically Trailblazer and not the fact that the program --

Highly classified. You can't put that in an unclassified document. And remember, the four of them are no longer in the system, although technically a couple of them still had their clearances. We're talking about a compartmentalized program. We're absolutely adhering to the nondisclosure agreements that we had all signed. ...

[↑ Return to top](#)

By 2005 [James] Risen and [Eric] Lichtblau are able to release this information about the program [in *The New York Times*]. How do you view that when it happens? To some extent, is it a green light for you to possibly hit that third rail?

Well, the third-rail option of going to the press was fraught with enormous peril. At a minimum, you would no doubt be fired. Or worse. And I knew that. I had known that for some time. We even discussed that possibility, that if all came to naught, there was the third-rail option: Go to the press with what you knew, and you could share a lot that was unclassified.

That DoD Office of Inspector General audit/investigation -- they call it an audit -- went on for well over two and a half years. It actually went well into 2005 before [the final report](#) was issued, and I remained in contact with them and well into 2006. Why? Because that investigation of the requirements for Trailblazer and ThinThread spawned a number of other audits. ...

The story that's been told is that the reason they come after you guys is because they get hold of the IG report and they see you guys as whistleblowers, and they assume that you might have also been the whistleblowers for *The New York Times*. Is there an additional piece of the puzzle that there was additional information released that perhaps they tied in to, which made them think for sure that they had the, quote/unquote, "right targets"?

Let me answer it this way. ... When [that article](#) came out in the middle of December, Dec. 15, it caused an incredible stir, because what it meant was at least the tip-of-the-iceberg contours of the secret domestic surveillance program was now revealed, what became known later by the government conveniently labeled as the Terrorist Surveillance Program, because one link was the quote/unquote "outside the U.S." They were desperate to protect the domestic-to-domestic, right, which had been ongoing on a vast scale for many, many years. ...

Two weeks later they launch this massive criminal national security leak investigation. That was Dec. 30, Department of Justice. I knew then that there was no doubt that I would ultimately get caught up in that investigation.

Why?

... The set of people that actually knew about the program, Stellar Wind, and any of the information related to it was very, very small. We're talking just about a small handful. We're talking about a few dozen at most that actually had direct knowledge. ...

[↑ Return to top](#)

So why the hell do you then go to *The Baltimore Sun*?

Because it was the final option. ... The final option was to go to the press under the First Amendment as an American citizen, because I had grave concerns about the future of the republic, and I knew that we had been off the rails, literally, in terms of law, constitutional law, for some time. ...

The irony here was I not a source for *The New York Times* in any way, shape or form. The government went to the ends of the earth to claim even in an affidavit before a magistrate judge that I did. They even make -- and they kept insisting, even during the early stages, and we'll get to

that, but even during the early stages of my prosecution, before I was indicted a couple years later, that I was the ringleader, because there was no evidence, which meant I must have been a really, really good spy, right?

So the third-rail option to go to the press meant I was putting my entire career on the line.

But your entire career was already on the line. As you said, you knew your door was going to be knocked on at some point.

Yeah, but remember, you have to remember, I went through several other jobs. I was able to remain employed at NSA. I had not gone outside the system. I had not gone outside proper channels. They couldn't literally fire me, per se, for having gone through the actual channels that you use to blow the whistle or the cooperative mechanisms in terms of serving as a material witness.

All of that was, quote/unquote, "protected" within the system. And although they can make your life very, very difficult -- it even got to the point, because I had written a memo, a multipage memo to [NSA Director] Gen. [Keith B.] Alexander, November 2005, saying, "What you are facing," unfortunately it was turned against me, and I was actually -- they actually reorganized my job right out from under me, and I literally was left with nothing. ... I had an office, I had a flag because of senior executive, but nothing else. No programs, no people, no team, no nothing.

A little lonely.

Right. So I applied to, as it turned out, as I figured out, well, you know what, what the heck, maybe I can affect the future of the government today by applying to serve as a visiting professor of behavioral science at the National Defense University, which I ultimately was offered and accepted in the summer of 2006.

[↑ Return to top](#)

Now, during this period of very late in December, as they were announcing this with great fanfare, January and the first three weeks of February, I contemplated the third-rail option. But I had to contemplate it without telling anybody. I had to contemplate it without informing anybody, because I knew once I'm out, now I'm outside proper channels. I'm now exposing myself fully to what the government could actually do to me. ...

Do you make a phone call? You send an email?

No. No, because everything is surveilled. We knew then. I mean, we knew -- I knew even more intimately than they did how far NSA had gone in terms of their surveillance state. ...

So you're not making phone calls; you're not doing emails. How do you meet up with the reporter for *The Baltimore Sun*?

Well, that's a whole story in itself, because I had to very carefully determine how could I possibly make contact with a reporter and

escape detection, knowing this reporter in particular, because I went through the list. She [Siobhan Gorman] had been writing a series of articles about NSA. She obviously had sources at NSA. She didn't know about me.

So how do you make contact with a reporter when the reporter doesn't know who you are? And how do you do it in a way that doesn't invite attention? How do you do it in a way that avoids the automatic detection of the surveillance system that had already been wired her in. How do you do that?

I knew I couldn't meet her physically. It was actually more dangerous to go down to the Tribune office in D.C. Why? There are surveillance cameras. On top of that, you have to check-in at a desk. ...

So how do you do it?

Very carefully. So I had to find a way, which was using encryption, right, to contact her in a way that was anonymous, not using any known email that I had, but yet she would have to open up the email with information that only she would know, without even knowing who I was. ...

Tell me the kind of information you then thought was necessary to release, and what did you tell her that she then reports on?

So in the public interest, I began a series of conversations with her. Now, she had no idea who I was. I ultimately was referred to as just "a senior official," a senior intelligence official. I went under various -- it was sort of an agreement as to how she would couch who I was in her reporting. But I was a deep source.

The arrangements were that I would provide her and only provide her unclassified information. So I provided her information about the secret surveillance program, unclassified, however, right? None of the details.

I would provide her additional information about the massive fraud, waste and abuse. Trailblazer -- more about Trailblazer and beyond. I ended up providing her information about ThinThread, that it was not only an alternative that provided superior intelligence and it protected U.S. persons. That actually was an article that she published. It was the first article in which I was a source. That came out in May 2006. ...

[↑ Return to top](#)

And the reaction?

Well, not good. And I knew that. Now, I'm leaving NSA proper headquarters. I'm still assigned to NSA, but a couple months later I'm now formally offered a position at the National Defense University. Out of sight, out of mind, as they would say. But here I am now in anonymous contact, unauthorized contact, in violation of administrative policy already and probably worse in 2006, OK? And I'm no doubt at that time, my name has already come up as a potential target, person of interest, to say it that way. ...

How do you know you were under surveillance then?

I started getting pulled aside going into NSA complex, where they would -- it was these random inspections, and it seemed to be more random than normal. I would be stopped, often stopped rather abruptly at times coming out of the building.

I started getting -- very interesting, as those months went into 2006 -- electronic surveillance of my computer's network at home. That's a whole story in itself.

And then physical surveillance. As we go into late fall and early 2007, I start noticing -- I used to work at the CIA; I'm quite familiar with that space. I used to work overseas in intelligence. I started noticing that I was probably being tracked and followed, to the point, by the way, as we move into 2007, in the late spring and summer, typically they started becoming much more overt about it, where they would actually park a car or two. Practically every morning when I left to go down to the university, those cars would be sitting at the end of the road.

What is this doing to your life?

It's all secret. Remember, the noose is tightening, to say it that way.

But I mean, what is it doing to your life, your marriage, your family?

No one knew at this time. ...

[↑ Return to top](#)

July 26, 2007, the feds raid the homes of Binney, Wiebe and Roark.

Essentially simultaneously. Although they had warrants for everybody except Ed; it was like a coerced/cooperative search.

How do you hear about it? What do they say happened?

Well, I heard about it two days later. I got a phone call from Kirk saying: "We need to meet with you. We have something to tell you." And obviously I knew that this was like, "Uh-oh, it's happening." ...

Four months later I'm raided. And that's when the nightmare began for me. But I knew after they were raided and after Bill and Kirk met with me -- now, Ed went underground. Ed, it destroyed his life, right? It literally destroyed his life.

How?

Well, I'll let him speak if you interview him. But he went underground. In fact, for the longest time, no one could communicate with him because he was so -- I mean, people's lives were destroyed. That's just the tip of the iceberg.

You're only talking about the people that were actually raided. We're not even going to talk about all the other people that were affected by this, people that were interrogated, people, because of mere association with us, were put under suspicion, were interrogated and interviewed, follow-up questions: "What do you know? What can you tell us? What dirt do you have on them?" I mean, this was many, many months, and in my case it went years, finding out everything they could about your life, and

anybody you had ever worked with, anybody that had ever been associated with you. ...

[↑ Return to top](#)

Take me to the day you were raided. What happened?

... So I'm looking out my bedroom window. I'm getting ready to go to work. My spouse, who works as a contractor at NSA, was the arrangement she takes our son -- he's 12 years old at the time -- to middle school. I'm seeing these cars pull up as I look out the window. It's just after 7:00 a.m. in the morning, and there's a dozen FBI agents. And my heart's up in my throat because I realize it's now me. ...

There's this huge knock on the door. My son opens it up as I come downstairs. And well, all these agents are lined up, and they had secured the property, and they were all armed.

Then what happened?

Well, they serve me with a search warrant. They read me my rights. I agree to cooperate because it was another opportunity to report high crimes and misdemeanors as defined under the Constitution. They didn't want to hear about that.

What did you try to tell them?

I told them everything I could, but they didn't want to hear about that. They wanted to hear about *The New York Times* and sources and who else might -- they wanted to know about Stellar Wind. They actually asked me very specific questions about Stellar Wind.

You talked for hours.

Hours, because I cooperated across three sessions -- November, December and April. April was the most chilling. April 2008, I was in New York City trying to clear my head. I realized I faced a very dark future. I was on administrative leave, and I knew that they were probably going to move to revoke my clearance, which meant I would ultimately have no way to remain in any capacity. I had already cleared out my office in February 2008, because it was clear I wasn't going to be coming back anytime soon, if ever.

And I remember getting a phone call from the FBI agent who was the liaison, right, who also took notes during all the interviews, and she says, "We need you to come into our facility," which is in the Greater D.C. area. It's a classified facility. And I did. And she says, when I got there, "There's someone here to meet you," and it was the original prosecutor, Steve Tyrrell. No longer with the government.

I pause because I still feel the emotion, because he proceeded to tell me: "How would you like to spend the rest of your life in prison, Mr. Drake, unless you cooperate with our investigation? We have more than enough information to put you away for a long, long time. You'd better start talking. And you might get as little as 15 or 17 years. Maybe. No guarantees, but that's better than life, isn't it?"

(Whistles.) That's quite a moment, isn't it? Your entire life is now in the hands of the government, and they're threatening you with the rest of your life in prison if you don't cooperate with the investigation, and an investigation in which I had cooperated at that point for five months?

I knew in that moment that I faced the worst of all possible consequences with respect to my actions. But I was not going to plead out. As I said -- I've said this publicly -- I was not going to plea-bargain with the truth, and I told him that. And he was all ticked off, and he says, "Well, we'll just have to go with what we've got."

And at that point, I cut off all cooperation with the FBI, and I entered into -- I had an agreement with -- I got a private attorney.

What did they say they had on you?

They never actually said, except I was a source.

He didn't say to you they had found classified documents on your emails and in your basement?

Well, they talked about all that. They talked about all that. "We have all this. Yeah, this is highly classified information. We've got all the goods on you. We have additional information that's come to our attention," which he wouldn't specify. "You're in a really hurtin' place, Mr. Drake, given" -- and they said I disclosed information that had severely, gravely -- it had gravely damaged the national security of the United States. Even then they were saying that.

And I was in a conspiracy. I had been in a conspiracy with the others; that in essence I was the ringleader. I was now -- I was target number one, and I was going to be the one that they were going to make the example of. ...

So did you ever have a belief that you'd not be able to prove your innocence?

I wasn't certain that the truth mattered, because it certainly didn't matter to the government.

There was a certain point where you admitted that you had talked to *The Baltimore Sun*. When was that?

I said that early on.

When you were raided?

When I was raided and I was cooperating with them across three -- it was 18 hours' worth of interviews. ...

I was admitting what I had actually done, OK, which is I had unauthorized contact with a reporter, but I had provided her unclassified information. That didn't matter. It was unauthorized, that's true, but I admitted that to them. It was an act of civil disobedience. ...

I had given classified information, and they added this whole theory, the mosaic theory, meaning you take pieces of unclassified -- and this has become the classic argument -- when you bring all that together, it makes it highly classified. That's what they presented with me during my

cooperative period. Led to that dramatic confrontation with the chief prosecutor.

But you knew at that moment when you told them about *The Baltimore Sun* that they would therefore jump to the conclusion --

Of course. But I had to tell them the truth. I only told them the truth. That's all I ever told them, the truth. But the truth wasn't good enough, as it turned out. ...

[↑ Return to top](#)

So Obama. So the election is on the horizon. Transparency candidate.

Yeah, trademarked. The most open and transparent administration in U.S. history.

What do you think, "I've got a chance here" ?

Yeah, a lot of people thought. My own attorney, private attorney, who knew the players, had been around, thought it would all disappear. Ultimately I was never indicted under the Bush administration. Figured it was all going to disappear. ...

Months went by. There was some back-and-forth attempts to see if I, as the object of the criminal investigation, would plead. I kept saying no. ...

So now it's fall. He has a meeting. But guess who's at the meeting? The outgoing prosecutor, the new prosecutor, William Welch, had been the head of the [Department of Justice's] Office of Public Integrity. He was the team lead on the Sen. Ted Stevens [R-Alaska], now-late Ted Stevens case. He had resigned in disgrace because of how that case was handled, including a judge saying that he had never seen such prosecutorial misconduct. He was actually held in contempt of court, OK? He was the team lead. Long story there.

They had brought him in, as it turned out, under Lanny Breuer, [Assistant Attorney General for the Criminal Division of the DOJ], the supervising official of my case now, to head up the Espionage Act cases, the leak investigations. It was clear my attorney could not prevail. It's the only time in which -- I remember hearing him on the other end of the phone with a very tired voice; he says: "Tom, I gave it my best. It's clear that they're going to go forward with this new prosecutor. We have to prepare for the distinct possibility that under the Obama administration you no doubt will be indicted."

Under the Espionage Act.

Yes. ...

But how is this possible under now Obama, who back in 2009 championed government transparency, that praised whistleblowers because of the important role that they play in bringing out the truth? How is it possible that under the Obama administration your case went on?

Because they wanted to send a message. They were going to drive the

stake of national security right through me and prop me out on the public common and say: "This is what happens. Dare speak truth to enough power, we will be able to make an object lesson of you. You don't want to do what Mr. Drake did." ...

We haven't even gotten to the actual indictment yet, but here it is, the fall 2009. And now we move into early 2010. It was clear -- and I was running out of money. I had spent a lot of money defending myself over the previous two years.

[↑ Return to top](#)

We get to March 2010. I'm secretly charged in the same FBI facility where I had met almost two years earlier the original chief prosecutor, threatening me with spending the rest of my life in prison. Now I'm being charged secretly, facing 35 years. ...

Why secretly?

Because at that time they weren't going to make it public in case I decided to plead out. ...

What are you thinking?

I'm thinking that I'm going to be indicted, and I'm facing the distinct prospect of having the rest of my life spent behind bars, effectively. ...

And what happens next?

Well, it's April 14, 2010. I am publicly indicted: 10 felony counts, five under the Espionage Act, one for obstruction for justice, four for making false statements, facing 35 years in prison. I knew I was behind several eight balls, and I knew that there was no assurance that I could prevail in the court of law, an Article III court. ...

It was extraordinarily lonely. What can I tell you? And I haven't even told you all the rest of the history I already suffered for the previous two years. I mean, life had become already extremely difficult. All the income I had, all the retirement's gone; your life is turned upside down. You're persona non grata. I ended up finding work, initially part-time, then full-time, in an Apple store, where I still work full-time now.

I mean, it's not very often that an American gets charged with espionage. You're lumped into the same category as the Robert Hanssens of the world, the Aldrich Ames of the world, the Alger Hisses of the world. ...

What we didn't know at the time is I was just the opening shot in this extraordinary, unprecedented, ruthless war on whistleblowers and truth-tellers in the Obama administration, way beyond Bush. Bush threatened, never actually indicted. ...

So what happens?

Well, I have to unwind the truth about my case with my public defenders. I have to prepare for trial. He set a timetable in motion, although it got changed several times. There's a whole bunch of procedures you have to follow because of all the allegations of highly classified, tippy-top

classified involved. I was charged with five counts of espionage, OK? For retention, unauthorized retention for the purpose of disclosure. ...

Welch is now in charge, ... and Welch was known as an extremely fierce prosecutor who would go up to and across the line if necessary to get his man. He has a checkered history in that regard.

[↑ Return to top](#)

But he doesn't get you in the end. Why not?

Because our case, it took a long time. The case ultimately collapsed under the weight of truth. And an extraordinary attorney, who I met shortly after I was indicted and who had written an incredibly powerful [op-ed](#) in the *L.A. Times*, Jesselyn Radack, the director of national security and human rights at the Government Accountability Project, realized what was at stake. She realized that what was emerging was extraordinarily unprecedented. She knew I was a whistleblower. She was the only one that got it, not just what had happened as an event, but the strategic consequences.

Here was the Obama administration making it clear right from the get-go, way beyond Bush, they would show no quarter to anybody who would dare hold up a mirror. And instead of looking forward and not backward, he was more than willing to look backward to make a case example of someone like myself: "Here's exhibit number one." ...

... What were the points that basically the judge evaluated when the final decision was made?

We have what's called a Classified Information Procedures Act [CIPA]. So as we got past the hearings, the formal hearings, you then have to establish what's going to be relevant and admissible at trial before the jury. And we went through many, many weeks and many, many closed hearings before the judge with just the defense and the prosecution, and he had to make decisions on every single piece of evidence from both sides as to whether it be relevant or admissible.

As the thing wound out and much of this is still sealed -- although Bill Leonard, who used to head up the Information Security Oversight Office and was also one of my defense experts. Also had a defense expert from the Dan Ellsberg, [the former military analyst who released the Pentagon Papers], Mort Halperin. I also had someone who I cannot say to this day his name, but he was probably one of the world's leading computer forensic experts, right. They're all ready to testify on my behalf.

Now, I can refer to count one, the felony count one. That was unsealed when Bill Leonard filed -- well, my public defenders filed a motion showing just how far -- he had never seen such an egregious violation of the classification standards that he used to lead, the very executive rules that govern the classification system. All of the charging documents were unclassified, but the government had pretextually determined for their own convenience that they were highly classified, OK? So that part of the case had collapsed before public trial.

Now, you also have all of a sudden I'm white-hot in terms of the press and media attention. So the Ridenhour Truth-Telling Prize in April, I gave -- that was the first time that I actually gave voice to all of this. The voice I had before in the court of public opinion was Jesselyn Radack. She was my voice when I had none, because anything I said could be used against me, which they call impeachable offenses. Then that was followed by the Jane Mayer article, lead article in the [*The New Yorker*] in May. And then that was followed by the *60 Minutes* piece at the top of the hour, at the very last two-hour special, two hours. I was at the top of the second hour with Scott Pelley. ...

So long story short, there's an extraordinary history there in that last final week, prior, week and a half, prior to my scheduled public trial, which by the way was the 40th anniversary of the publication of the Pentagon Papers.

Entered into a plea agreement. It was on my terms, truth be told, not what the government has said. They would drop all felony counts. I would enter into a plea agreement, minor misdemeanor for exceeding authorized use of a computer, OK? Had nothing to do with classified, had nothing to do with unauthorized contact with a reporter. Period. End of story. No fine. No jail time. One year of community service, 240 hours. One year probation. ...

How do you get back the life you had, though, before all this happened?

You don't get your life back. You have to recreate it. I've had to start all over. I can never go back. And the life that I led before all this happened is not the same, including relationships, although there's all kinds of silver linings -- a whole new set of relationships and a whole new set of people. I'm now an activist. I'm a civil libertarian. I stand up for those who would dare speak truth to power. I've been asked -- I go around the world now, and increasingly so. That's what's happened. ...

[↑ Return to top](#)

2005 is the time *The New York Times* is working on the article, [but] you don't know that.

I don't know that. I had no contact at all. ...

Were you at that point thinking about going to the press? Were you waiting for the IG? Was anything happening at that point?

There was an interim report in 2004. It was not the final report. But as we went into 2005, it was pretty clear.

And then Alexander, I had some hope that maybe Alexander would look at this differently. That's why I wrote this memo to him in November 2005, which is really my final whistleblower act. It really was, short of going to the press. Within the system, my last official act, for intents and purposes, was to write that formal letter to Alexander. It was turned against me. That's when they reorganized me. ...

What did the Alexander letter say?

I told him what was at stake and how NSA had gone way off the rails. And the ThinThread program had solved the heart of Trailblazer, and he knew Trailblazer was an abysmal failure at this point, he knew that, but he said, "I have my own solution." ...

You watched the president [George W. Bush] come out and say this is a valuable program; one side of the communications has to be outside; we're following terrorists; this has prevented attacks on our country. The vice president [Dick Cheney] attacks the *Times* for publishing. You're watching this, and you know what's going on inside. What are you thinking?

This actually was part of the triggering event for me in which increasingly I knew I was going to have to touch the third rail, back to your earlier question. I realized that they were lying, that they were desperate to protect the domestic surveillance program. And so they could use the excuse, although it was still in violation of FISA, that as long as one link somehow was tied to a suspected terrorist, that justified collecting or targeting the link that was in the United States proper.

That was just the tip of the iceberg. The far larger program was the dragnet surveillance, the vast bulk copy of millions and millions of phone records, email records, Internet usage and financial transactional and credit card information.

So as I was hearing the statements -- Alexander's statements, [Director of National Intelligence Director John] Negroponte's statements, Gen. Hayden's statements and other government press releases about that this was compromising national security at the highest levels, this program had saved lives, and all this other covering language -- I knew not only was I going to get caught up as the investigation that was so publicly announced a couple weeks later, this was increasingly moving me to a point where there was one final choice I could make, which was actually take what I knew, all those years had transpired, all the internal proper channels had been exhausted. The one final choice was to actually touch the third rail and go to the press.

[↑ Return to top](#)

Snowden's story in a lot of ways is the mirror image of yours in some way. He studied your case, in fact, he said.

He studied it very carefully. I served as inspiration for him.

Explain that. What did he learn from it?

He learned that you could not go through any channels at all. You'd be totally compromised; it was a waste of time. And he knew that if you did go to the press that you'd be jacked up on Espionage Act charges.

So he faced his own challenge. Knowing what he now had access to, which was full documentation, more of which is still to come out, that he would have to leave -- I'm now just reading into based on conversations that I had with him when we were in Russia.

He knew he would have to escape the United States to have any chance

of getting explosive documentation detailing how vast the surveillance state had grown, had gone, both domestically as well as overseas, just bulk-copy access to millions and millions of records of citizens, both U.S. citizens as well as other citizens, completely innocent, had nothing to do with any kind of investigation, right -- this pathological condition now that is now fully institutionalized.

He knew he would have to escape the United States to have any hope of getting it in the hands of reporters and journalists. And there was still no guarantee that he'd be able to retain his own freedom, even overseas. But he had to leave the United States. ...

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