

The Intercept

Former CIA Analyst Sues Defense Department to Vindicate NSA Whistleblowers

Jenna McLaughlin

February 10, 2017

In 2010, Thomas Drake, a former senior employee at the National Security Agency, was charged with espionage for speaking to a reporter from the Baltimore Sun about a bloated, dysfunctional intelligence program he believed would violate Americans' privacy. The case against him eventually fell apart, and he pled guilty to a single misdemeanor, but his career in the NSA was over.

Though Drake was largely vindicated, the central question he raised about technology and privacy has never been resolved. Almost seven years have passed now, but Pat Eddington, a former CIA analyst, is still trying to prove that Drake was right.

While working for Rep. Rush Holt, D-N.J., Eddington had the unique opportunity to comb through still-classified documents that outline the history of two competing NSA programs known as ThinThread and Trailblazer. He's seen an unredacted version of the Pentagon inspector general's 2004 audit of the NSA's failures during that time, and has filed Freedom of Information Act requests.

In January, Eddington decided to take those efforts a step further by suing the Department of Defense to obtain the material, he tells The Intercept. "Those documents completely vindicate" those who advocated for ThinThread at personal risk, says Eddington.

The controversy dates back to 1996, when Ed Loomis, then a computer systems designer for the NSA, along with his team worked to move the NSA's collection capabilities from the analog to the digital world. The shift would allow the NSA to scoop up internet packets, stringing them together into legible communications, and automating a process to instantly decide which communications were most interesting, while masking anything from Americans. The prototype, called GrandMaster, would need to ingest vast amounts of data, but only spit out what was most valuable, deleting or encrypting everything else.

Then in the fall of 2001, four passenger airliners were hijacked by terrorists as part of a suicide plot against Washington, D.C., and New York City. The U.S. intelligence community faced a disturbing wakeup call: its vast collection systems had failed to prevent the attacks.

Yet, in response, the NSA simply started collecting more data.

The NSA sent out a bid to multiple defense contractors, seeking a program that could collect and analyze communications from phones and the internet. Science Applications Internal Corporation, or SAIC, won the contract, known as Trailblazer. Meanwhile, internally, NSA employees were developing a similar, less costly alternative called ThinThread, a follow-on to GrandMaster. ThinThread would collect online communications, sort them, and mask data belonging to Americans.

Those involved in ThinThread argue that their approach was better than a collect-it-all approach taken by NSA.

“Bulk collection kills people,” says Bill Binney, a former NSA analyst, who rose to be a senior technical official with a dream of automating the agency’s espionage. “You collect everything, dump it on the analyst, and they can’t see the threat coming, can’t stop it,” he says.

Binney built a back-end system — a processor that would draw on data collected by ThinThread, analyze it, look at whether or not the traffic involves American citizens, and pass on what was valuable for foreign intelligence.

“Bulk acquisition doesn’t work,” agrees Kirk Wiebe, a former NSA senior analyst, who was trying to help convince NSA of ThinThread’s value at the time.

The analysts are drowning in data, and Binney and Wiebe believe ThinThread would have solved the problem by helping the NSA sort through the deluge automatically while protecting privacy using encryption.

But Binney and Wiebe say advocates of ThinThread hit every possible bureaucratic roadblock on the way, sitting in dozens of meetings with lawyers and lawmakers. In the meantime, Gen. Michael Hayden, the director of the NSA at the time, said he decided to fund an outside contract for a larger effort, focused on gathering all communications, not just those over the internet, as ThinThread was designed to do.

Additionally, while ThinThread masked American communications, Hayden’s legal and technical advisors were concerned the collection itself would be a problem. Some of Hayden’s senior officials at the NSA came from SAIC, the company that won contract to design a proof of concept for Trailblazer.

“A tiny group of people at NSA had developed a capability for next to no money at all to give the government an unprecedented level of access to any number of foreign terrorists,” Eddington says. “Instead that system was shut down in favor of an SAIC boondoggle that cost taxpayers, by my last count, close to a billion dollars.”

He argues the contract, and the “incestuous” relationship between the NSA chief and the contractor never received the scrutiny it deserved. “It was clearly an ethical problem,” Loomis said.

Ultimately, however, the NSA went with Trailblazer. Hayden rejected the ThinThread proposal because the intelligence community’s lawyers were concerned it wouldn’t work on a global scale, and that it would vacuum up too much American data. Hayden has continued dismissing concerns years later as the grumblings of disgruntled employees. Hayden told PBS Frontline ThinThread “was not the answer to the problems we were facing, with regard to the volume, variety and velocity of modern communications.”

In 2002, Wiebe, Binney, Loomis, Drake, and Diane Roark, a Republican staffer on the House Intelligence Committee who had been advocating for ThinThread, united to complain to the Defense Department’s inspector general, arguing that ThinThread, while still a prototype, would be the best surveillance system. The oversight body completed its report in 2004, which included major concerns about Trailblazer.

“We talked about going for the nuclear option,” Wiebe said, referring to discussions at the time about contacting the press.

But Drake went it alone, however, never telling his colleagues what he planned to do. Stories about the disagreements started showing up in news headlines based on leaks. The Bush administration in 2007 sent the FBI after the whistleblowers, raiding each of the whistleblowers’ homes who raised complaints to the Pentagon inspector general. Drake faced espionage charges after speaking to a reporter from the Baltimore Sun about the alleged mismanagement and waste in the NSA.

Though Drake wasn’t sent to prison, he lost his career in government, and now works at an Apple store. The question of whether ThinThread would have provided a better capability than Trailblazer was never resolved.

While ThinThread never made it to production, some of the analytic elements, minus the privacy protections, made it into Fort Meade as part of a massive surveillance program now known as Stellar Wind.

But there may be a way to settle the debate. The watchdog agency tasked with oversight of the Department of Defense completed a full investigation into the battle between ThinThread and the Trailblazer. The Pentagon inspector general published a heavily redacted version of that investigation in 2011; that report is now the only public record available, aside from the account of the whistleblowers who exposed it.

Despite everything that’s come out about its surveillance programs, the NSA still won’t release the full ThinThread investigation. “I don’t really know what they’re trying to hide,” said Loomis.

Loomis says he thinks those redactions were more for the sake of Hayden’s reputation than protecting real classified information. He eventually documented the saga in a self-published book called “NSA’s Transformation: An Executive Branch Black Eye.”

Drake told The Intercept in an email that efforts to uncover the Pentagon inspector general's ThinThread investigation were a large part of his defense. Since then, the Office of Special Counsel concluded last March that the Department of Justice may have destroyed evidence that might have helped exonerate him.

In the meantime, however, hope is fading that the entire story of ThinThread will emerge from behind the government door of secrecy. "We've been trying for 15 or 16 years now to bring the U.S. government the technical solution to save lives, but they fight us left and right," said Wiebe.

Eddington says the ThinThread controversy demonstrates the lack of oversight of the intelligence community. "The mentality that gave us this system is still in place," he says. "We could see this become de facto permanent," he said.