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NSA bungling deserves scrutiny

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Two days after ISIS' savage attacks in Paris, a documentary premiered in New York that gave voice to a question on everyone's mind: Can such attacks be prevented? Austrian film maker Fritz Moser's documentary, "A Good American," answers resoundingly in the affirmative.

Moser's "good American," and star of the film, is retired National Security Agency technical director Bill Binney. Binney and his small group of colleagues from the agency's Signals Analysis Research Center are interviewed at length on the group's crowning achievement – a then-revolutionary electronic eavesdropping program code named THINTHREAD.

A sophisticated system capable of sifting through the trillions of daily digital communications generated on the Internet and finding the ones belonging to known or suspected terrorists, THINTHREAD could perform its task without violating the constitutional rights of a single American. Under SARC's proposal, any U.S. citizen's encrypted data could only be unlocked with a valid court order based on probable cause, as required by the Fourth Amendment.

But instead of being rewarded for developing a cutting-edge electronic spy system on the cheap, Binney and his crew were bureaucratically sandbagged by then-NSA Director Michael Hayden and his signals intelligence director, Maureen Baginsky.

THINTHREAD'S deployment was officially canceled by Baginsky three weeks before the 9/11 attacks. Baginsky instead put American taxpayer money into a far more expensive, and ultimately failed, program named TRAILBLAZER.

As revealed in the film, post-9/11 data analysis performed using THINTHREAD uncovered the identities and related activities of the hijackers. Had the system been allowed to go operational in the months prior to the attacks, the 9/11 attacks would almost certainly have been prevented.

Adding insult to injury, Hayden ordered the use of THINTHREAD's massive data collection capabilities without the constitutional safeguards originally built into the system.

Binney and his SARC team became so incensed at the lost opportunity to prevent the attacks – and the enormous waste in the SAIC-run TRAILBLAZER boondoggle – that they filed a whistleblower complaint in 2002 with the Defense Department's inspector general. That complaint resulted in a still almost completely classified report being issued by the Defense Department IG in late 2004.

After the report was published, Binney, his THINTHREAD program colleagues and a former House Intelligence Committee staffer, were all investigated by the FBI on bogus charges of revealing classified information. Drake suffered the most, being indicted under the Espionage Act.

The case against Drake collapsed because Justice Department lawyers were ultimately forced to admit that neither Drake nor his colleagues had revealed classified information. To date, no officials at Justice, the Pentagon or NSA have been held accountable either for the THINTHREAD/TRAILBLAZER episode or the prosecutorial witch hunt against Drake, Binney, Wiebe, Loomis and Roark.

I obtained access to the classified report during my tenure as senior policy adviser to then-Rep. Rush Holt while he served on the National Commission on Research and Development in the Intelligence Community.

The report is one of the most damning government documents I've read in my nearly 30 years in Washington. The investigation validated the core allegations made by Binney and his colleagues. Over 100 redacted paragraphs in that report are marked "UNCLASSIFIED," yet the NSA continues to misuse the classification system to conceal the misconduct that Hayden and other senior NSA executives engaged in during the saga.

If the Freedom of Information Act declassification request I filed this year does not result in the release of the report and all related documents, I will take the NSA to court to try to force their disclosure.

In the wake of the latest tragedies in Paris, the key questions raised by "A Good American" are relevant and timely.

All Americans should demand accountability for those in and out of government who failed to heed Binney and the other good Americans featured in Moser's film.

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