


Declaration of former NSA senior executive Thomas Drake

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In this declaration associated with a lawsuit filed by the former mayor of Salt Lake City against the NSA, Drake says the FBI monitored and collected all text messages and emails sent by anyone who was at the 2002 Olympics.

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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

MARY JOSEPHINE (JOSIE) VALDEZ,
HOWARD STEPHENSON, DEEDA SEED,
DANIEL DARGER, WILLIAM GRANT
BAGLEY, and THOMAS NELSON
HUCKIN,

Plaintiffs,

v.

NATIONAL SECURITY AGENCY;
GEORGE W. BUSH, in his individual
capacity; MICHAEL V. HAYDEN, in his
individual capacity; RICHARD B.
CHENEY, in his individual capacity;
DAVID ADDINGTON, in his individual
capacity; DOES #1-50, inclusive,

Defendants.

**DECLARATION OF THOMAS
ANDREWS DRAKE**

Case No. 2:15-cv-00584-RJS

Judge Robert J. Shelby

Magistrate Judge Dustin B. Pead

DECLARATION OF THOMAS ANDREWS DRAKE

I, Thomas Andrews Drake, declare as follows:

1. I am a former senior executive of the National Security Agency (“NSA”), the signals intelligence agency within the Department of Defense. Unless otherwise indicated, I have personal knowledge of each and every fact set forth below and can competently testify thereto.
2. A true and correct copy of my NSA resume is attached hereto as Exhibit “A.”

3. Prior to September 11, 2001, the NSA managed the task of gathering foreign intelligence while instilling a respect for the Fourth Amendment to the United States Constitution and the Foreign Intelligence Surveillance Act ("FISA") among its employees. It was a prime directive. Everything changed after the attacks on September 11. The NSA's new approach was that the President had the authority to override FISA and the Fourth Amendment to the United States Constitution and that the NSA worked under the authority of the President. The new commonly understood charge with respect to intercepting intelligence was "just get it," regardless of the law.

4. On October 4, 2001, President George W. Bush authorized the NSA as the executive agent to conduct electronic surveillance within the United States. This authorization, along with subsequent renewals, were known as the President's Surveillance Program ("PSP"). Within the NSA, the surveillance operations pursuant to the PSP were given the project name "Stellar Wind." At the NSA, the PSP and Stellar Wind were essentially synonymous.

5. Stellar Wind was an umbrella project of blanket, indiscriminate surveillance on US persons and people within the United States. The program involved far more than the surveillance and collection of foreign electronic communications. It also included the collection of domestic electronic communications traffic, including the contents of text messages and emails and the metadata of telephone calls, without any privacy protections or judicial oversight.

6. As part of Stellar Wind, a special field operation was created in connection with the 2002 Salt Lake City Winter Olympic Games ("Salt Lake Olympics Field Op"). Officials in the NSA and FBI viewed the Salt Lake Olympics Field Op as a golden opportunity to bring together resources from both agencies to experiment with and fine tune a new scale of mass surveillance,

pursuant to which, for the first time in the United States, a surveillance “cone” was essentially placed over entire geographical areas to collect and store virtually all electronic communications going into or out of that area.

7. I learned about Stellar Wind and about the Salt Lake Olympics Field Op from people employed at NSA who expressed to me their intense concerns about the legality of those programs under FISA and the United States Constitution. The Salt Lake Olympics Field Op included geofencing to set up virtual boundaries around Salt Lake City and nearby Olympic venues for a time period before and during the 2002 Salt Lake City Winter Olympic Games. Virtually all electronic communication signals that went into or out of one of those designated areas were captured and stored by the NSA, including the contents of emails and text messages. The NSA stored the metadata for all those electronic signals. The text-based content of those signals, such as the text in emails and in SMS text messages, were all captured and stored. Some other content, such as large images or video files, were not all necessarily stored because of the technical difficulty of capturing so much data at once, but the metadata for those files were stored.

8. The Salt Lake Olympics Field Op was—as in the illegal bulk telephony metadata program described in the Declaration of Wayne Murphy (“Murphy”) dated March 3, 2017 (“Murphy Declaration”), attached hereto as Exhibit “B,” and in *American Civil Liberties Union v. Clapper*, 785 F.3d 787, 816 (2d Cir. 2015)—a program to subject private electronic communications of people in the United States to mass, indiscriminate, warrantless surveillance.

9. The only electronic signals that may not have been captured by the Salt Lake Olympics Field Op in the designated areas were communications that remained entirely within the area—such as a signal on an internal network that never reached a device outside the designated