

## **9/11 and the PROGRAM: A Nation and Its Culture, Changed Forever**

It was just an average Tuesday. I was a freshman in high school at the time, somewhat of an outcast, tending to keep to myself and a small group of friends I'd play Magic the Gathering with at lunch. I would avoid using my locker and kept my books and supplies in my bag, from which I still suffer from compression fractures to this day. It was a small school, my freshman class being composed of only roughly 145 kids. When a class was over, I'd make my way to my next class, riddled with anxiety at the thought of people noticing me as I'd walk through the surprisingly crowded halls, keeping my head down and not interacting with anyone.

Maybe that's why I didn't notice the curious and worried looks on people's faces, conversations taking on an urgent tone, a strange blend of stillness, shock, and trepidation. I arrived at my English class, sat at my desk, took out my notebook, and started doodling as I always did while waiting for class to start. Our teacher was in the hall, ushering kids into class while exchanging worried looks and whispers with the other faculty. She took a couple extra minutes to speak with the teacher next door to our room, which I remember as being out of place for her. She was an older woman, somewhat heavysset and took a traditional, no-nonsense approach to her craft. I cannot for the life of me remember her name, but I

remember her face, and the serious demeanor she usually had. I hadn't been in high school long, only a few weeks, but I already knew this was a class not to mess around in. So, when I tell you I was surprised when she closed the door and, instead of addressing the class, turned the TV on and switched to the news, I truly mean that I was surprised.

We sat there silently as the news anchor gave details about a plane hitting a building, the attention of my classmates and I becoming transfixed on the old CRT TV. A plane had hit the World Trade Center in New York, and no one quite knew what was going on just yet. The anchor, already sounding distraught at what he was witnessing, suddenly took on a panicked tone as he exclaimed that someone had jumped from the building. Whispers began to fill the room, my classmates beginning to feel that strange sense of fear I'm sure most of us in America felt that day. The anchor, barely holding it together while doing his best to inform America of what was happening, stopped speaking and went silent for just a moment, a split second, and in that second, I knew something very bad was about to happen.

The anchor exclaimed "Is that another plane?" in both shock and disbelief. That's when the second plane hit. A girl in class let out a noise, though I don't know what to call it. It wasn't a scream, and it wasn't a gasp, but something in between. Something quieter and unsettling. Whatever it was, it held within it that strange fear we were all feeling in that moment, and for me, it caused me to experience my mortality for I think the first time in my life. That was the first moment I understood, truly, that the world was not a safe place.

It wasn't a normal sensation of fear we were feeling. Not like the fear you feel when you're going too fast down a hill on roller blades (I still have the scars), or when your

relationship has been rocky and you're afraid your girlfriend is about to break up with you. This fear was something different, something unique, and in it was the sense that the world had just irreversibly changed forever. If only we knew back then just how much that would turn out to be true.

That fear was an important variable in what would happen next, and the US government under President George W. Bush would take advantage of that fear, using it to alter the cultural and societal paradigm we had operated under before the events of that day. Before September 11, 2001, getting on a plane was only mildly more involved than taking a long-distance bus trip. As kids, we played with friends out in our neighborhoods until dusk, our parents rarely having any idea where we were or what trouble we were getting into, and from a young age, too. Movie theaters and shopping malls were always packed to the brim, people more concerned about the pleasures gained from consumerism than what catastrophes could occur at such densely populated establishments. The world was a playground, and it felt safe.

That changed quickly after 9/11, with a speed you wouldn't believe. The paradigm had shifted to fear and uncertainty. When was the next attack going to happen? What would the next target be? How many would die next time? Everyone was sure there would be a next time.

At the National Security Agency (NSA) Headquarters on September 12<sup>th</sup>, the mood was a somber regret and disbelief. The agents employed with the NSA believed themselves culpable for what had happened, wondering what they did wrong, what didn't they detect

that should have been detected? The consensus was described as feeling like prior to that day, they were fighting with one hand tied behind their backs in fear of political backlash, like what happened with Nixon and the Watergate scandal. The NSA believed itself to have been overly cautious, with NSA cryptologist Edward Loomis claiming in an interview, through tears, that what had happened that day could have been prevented with revisions to how they operated, revisions he had tried to get the general council to embrace. But they wouldn't, and because they wouldn't, over 3000 lives were lost that day.

Vice President Dick Cheney was putting pressure on the agencies and military, including CIA Director George Tenet. Tenet called General Michael Hayden and told him to take the gloves off and prevent another surprise attack. This phone call was the beginning of what would eventually become The PROGRAM, the most widespread government surveillance program of a population to ever exist.

Washington knew it would be controversial, that it would be towing the line of legality and likely overstep that line, making a mockery of the Constitution and destroying public trust in the US government. If the public ever found out, that is, and when they did, Washington would deal with it then.

President Bush asks Hayden what they could do to prevent another 9/11, and Hayden's response is to monitor the phone calls of millions of Americans. Bush tells Hayden to go and develop the program, that they'd have lawyers working on it, but that "we're going to do this." Hayden, knowing the legalities of this plan would be questionable at best, sought advice from his personal attorney Robert Deitz, and wanted him to sign off that it is legal.

Deitz tells him it's a "very hard call" but ultimately, that Article 2 authority gave Hayden the okay.

At the NSA, Thomas Drake was charged with digging to find whatever they had that could be used for Washington's plan. Drake understood the importance of preventing another attack, but he also understood that whatever he came up with, it had to safeguard the privacy of American citizens. Through his search, he found a program developed by William Binny called THINTHREAD, which would build networks around communications, isolate terrorists, selectively pick out relevant info, anonymize who it listened into unless a court warrant was obtained, and would automatically encrypt the data if who was being listened to was a US citizen.

Drake put together a 2-page plan to utilize THINTHREAD, but his plan was rejected. However, soon server stacks began appearing around the offices, and people were coming to Drake with concerns like "I thought we were supposed to have a warrant." Drake discovered that THINTHREAD was indeed utilized, however it was deployed without the safeguards and encryption that protected US citizens. He realized the NSA had gone down a path they were preached to that "you never do."

Over the next few years, whistleblowers would try to alert the press to what was happening, and Washington had to combat with both the agencies and congressional leaders who were looking into what this program was, asking questions, and threatening the program's existence. By 2003, keeping The PROGRAM secret had become increasingly difficult, with the DOJ investigating the legalities. In October of that year, Jack Goldsmith was

appointed to head the Office of Legal Counsel and was briefed on The PROGRAM by David Addington. Goldsmith had doubts on the legality, and discovered that not just phone calls, but private emails were being collected, and not just metadata, but the content of the calls and emails. Realizing this to be violations of the 4<sup>th</sup> and possibly even 1<sup>st</sup> amendments, he decides the DOJ will pull back endorsement of The PROGRAM, to which Addington responds the lives of those killed next would be on his head.

Later, James Comey delivers news to AG John Ashcroft, who had to sign to reauthorize the program every 45 days and had done so for 2 years, that parts of the program were illegal. Ashcroft decides he will no longer endorse The PROGRAM, then late that evening, collapses with pancreatitis. James Comey becomes acting Attorney General, who informs the White House within 48 hours of expiration that he will not sign off on The PROGRAM. In response to this, Chief of Staff Andrew Card and Alberto Gonzales go to Ashcroft's hospital, hoping to convince him to sign off and keep The PROGRAM operating. Ashcroft's wife calls Comey, who rushes to the hospital and, with Ashcroft collecting his strength to give a 2-3-minute-long speech to the two men, prevents them from obtaining a signature.

VP Cheney later insists the President operates on his own and approves The PROGRAM without the signature of the AG, and so a new document is made with a place for the signature of White House Counsel Alberto Gonzales, not the Attorney General, who signs the document, later saying he did so "to protect the president." President Bush reauthorizes The PROGRAM that afternoon. In response to this, nearly the entire political appointment list at the DOJ threatens to resign. The next morning, Bush speaks with Comey, telling Cheney to say back and let the two have a talk. Comey informs the president of what's been going on for

nearly three months, resulting in Bush calling for FBI Director Muller, then tells Comey to fix the problem, and that he's withdrawing the order.

The warrantless collection was shut down, but only for the time being. The White House was determined to resume The PROGRAM. General Hayden meets with FISA Court Judge Colleen Kollar-Kotelly and makes his pitch across two Saturdays. Kotelly rules The PROGRAM to be legal, and that the NSA could collect all internet metadata going in and out of the US, using the authority of a 25-year old Supreme Court case previously used to trace calls going to and from a single phone on all US citizens.

From this point forward, there was little that could be done to prevent the mass surveillance of Americans, as it was ruled legal by the court in charge of such decisions. Only public outcry could make a difference, if the public could be informed. And many tried, and had their lives destroyed for their attempts. While leaks would occur, and the public would eventually be made aware of what was going on, the damage had already been done. The government had gained an incredible amount of power which it would not give up willingly.

Today, while this happened 20 years ago, we still live with constant government surveillance. It's become a fact of life. We all know we're being monitored, but few care enough to make any effort to prevent it. These events happened so long ago that many today do not remember, and many were not even born yet. The PROGRAM and its consequences are paradoxically both a fact of life and a story of yesteryear.

Given the events I've described above, which barely scratches the surface, its undeniable that the government's actions were unethical. At practically every step of the way,

Washington had to dig and find legal loopholes, convince judges to side with their agenda, and sweet-talk (or scare) congressional leaders into dropping their investigations. The White House understood it had to hide information about The PROGRAM from the public, and that the legalities surrounding it were questionable at best, and undeniably unconstitutional at worst. No argument can be made that these were ethical actions performed by the Bush administration when the administration itself recognized it was acting against the will of the people and the protections that were supposed to be in place for them.

However, were they justified? That's a more difficult question. There were no more attacks like September 11<sup>th</sup> in America. The country experienced two decades without another attack, and it's still going strong. There have been attacks in other countries, many attacks. I was in England visiting family and left to come back home just days before the July, 2005 bombings in London, just to give one example that hits a little close to home for me.

So, it could be argued that they were, indeed, justified. My response, however, would be at what cost. As I said earlier in this paper, the world was different before 9/11. It felt safe, like it was a place to be explored. It doesn't feel that way anymore and hasn't ever since. People are more closed off, less welcoming and less open to new ideas. Culture feels like it's regressed before reaching a point of stagnation. Is it because we are aware that we are being surveilled? Have we lost something of our adventurous spirit? Have we lost our healthy level of rebelliousness?

I wonder if mass surveillance at the scale of The PROGRAM coinciding with this specific era of technological development created a unique situation that's led to our cultural



stagnation and societal decay. One could argue, validly in my opinion, that the 90's were the last decade of American culture, before surveillance and globalism, through expanded communications technologies, began the process of homogenization of the Western world.

Were there any other options? I don't think we'll ever know a concrete answer to that question. We have no idea what threats were thwarted, what good the mass surveillance has actually done. It's certainly possible that catastrophe was averted and we were never informed. And ultimately, what better way to catch the most fish than to cast the widest net available? So while I believe The PROGRAM is about as unethical as it gets when it comes to government use of technology, I cannot answer the question with any certainty that we had any other option, and perhaps it was always inevitable that technological advancement would lead to the atrophying of the human spirit.

All I can really say at this point is I pray that this is just a blip in history, and as technological progress has created the problem, just maybe it will also create the solution.

**Sources:**

- *The United States of Secrets: Part 1*, PBS - <https://www.pbs.org/video/frontline-united-states-secrets-part-one/>
- *Data and Goliath: The Hidden Battles to Collect Your Data and Control Your World*,

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