
THE NATIONAL SECURITY ARCHIVE: Keeping the Government Honest

Frankie Pelzman

If the National Security Archive were a quasi-independent federal agency, the descriptor would be "lean and clean." If it were a library, the category would be "research/depository." If it were a policy institute, the heading might be "information/advocacy/current." NSA, of course, is all three. It has developed a com-

plex, multifaceted character in a few short years.

In 1985 two Washington reporters, Scott Armstrong and Ray Bonner, working independently on foreign policy books, realized they both had amassed boxes of good stuff—archival material of potential value to other chroniclers of contemporary history.

"We should agree on a place to put it all when we're done" was a natural thought. If an old-fashioned attic had been available, there might be no NSA. Instead, that casual conclusion eventually became a small institution with an imposing mandate, respected and established, one of the swarm of gadflies that are movers and shakers of the Washington establishment. Less well known than any part of the Nader conglomerate, nonetheless in some Washington circles—and among some librarians—NSA is synonymous with information.

Not just an archive

NSA has initiated or participated in important litigation related to access to information, to the definition of public information, and to the broadest reading of the Freedom of Information Act. At the same time, it has created a central repository of con-

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temporary history for scholars and journalists, set up an independent publishing operation, and, most recently, signed a contract with publisher Chadwyck-Healey of Alexandria, Virginia that is making NSA's rich resources available on microfiche with printed, two-volume indexes.

Under the series title *The Making of U.S. Policy*, previously classified documentation from federal and private sources is now available to libraries everywhere, to scholars and researchers, and to any student for whom the actual script of history is critical. Available now are *The Cuban Missile Crisis, 1962*; *El Salvador, 1977-1984*; and *The Iran-Contra Affair, 1983-1988*. Titles yet to come include *The Berlin Crisis, 1958-1962*; *Nuclear Non-Proliferation, 1955-1988*; *Iran: The Making of U.S. Policy*; and *Afghanistan: The Making of U.S. Policy*.

On the handsome flyers promoting the series, there is the following description of NSA: "The records in the Archive's collection are obtained through Freedom of Information Act declassification requests and legal suits, as well as through many other channels: government reports released without classification, donated record holdings and oral histories, Congressional reports and testimony, official court records, and Presidential Libraries." It almost makes it sound easy.

Scott Armstrong is sitting on a

bench on the campus at American University. It is a spring day that January has dealt unexpectedly, and there are coats discarded under the trees and arcs of Frisbees crisscrossing the open yard. Armstrong looks like a middle-aged preppie, slightly round in outline, or a popular teacher at a small New England school. He looks tired, and exhilarated. He recently has left NSA as director, although he remains as an adviser, and he is stirring the soup for a new venture at AU, a Center for International Journalism. He hopes to get back to the book that he was writing in 1985 and he is excited at the prospect of a new venture. He feels pain at exiting the institution he founded, uncertain not as to its future but, perhaps, as to whether the original passion can be maintained with change and success. There is no doubt that Scott Armstrong is passionate about information.

Clearly NSA is at a pivotal moment in its institutional life. Its board is conducting a search for an executive director at a time when some members are leaving, tired of stress and pressure, and when NSA faces important decisions about funding and future policies. Success, as well as failure, is an institutional problem and the next months will be important for the Archive.

If NSA had been content to fill only its information role—receiving, evalu-

ating, and computerizing information documents given to it by others or collected through its own painstaking research procedures, publishing careful chronologies of the history revealed by those documents, evaluating what needs to be saved and made accessible to future generations—it could have become a quiet haven for scholars that might eventually have found a formal home in some academic library or archival office.

It developed, however, that FOIA and NSA were made for each other, and that has made all the difference.

Using FOIA

There are three principal statutes related to the dissemination of information and privacy issues; the most familiar is the Freedom of Information Act. It, in theory, is the most often used and the simplest to exercise. The rules for implementing the act, related to a federal agency's response time and to what the requester must pay for, are set out in the *Code of Federal Regulations*. If you want some information about the deliberations carried out at the Federal Aviation Administration related to guidelines in rulemaking for the use of infant seats, for instance, you could write a letter to the agency and request information under FOIA. In theory, again,

intends to make information available." The omission of that category would have meant hundreds of thousands of dollars in additional costs for NSA, which has a staff of around thirty and an annual budget of \$1.5 million. Ultimately, in July 1989, in the lawsuit *Armstrong v. Bush et al.*, Judge Douglas Ginsburg of the U.S. Circuit Court of Appeals for the D.C. Circuit, writing for a three-judge panel, while denying NSA status as an educational institution, accepted the group as a representative of the news media because of its publications. The decision, of course, represented an important victory not only for the Archive but for free-lance journalists and writers, who often have been denied FOIA fee reductions, particularly at the State Department.

Every federal agency has a FOIA office; many do a terrific job. According to Scott Armstrong, both the departments of Defense and of Health and Human Services, with huge burdens—HHS answered 125,759 FOIA requests in 1989—manage to respond within the time frame. "Then there's an agency like State," Armstrong commented. "In one year, as I remember it, the State Department never answered *one* FOIA request on time." There are simple tricks of the trade, e.g., an agency may answer a respon-

sponse time in 1983.

The rules, of course, permit an agency to deny or answer a request in part or full, giving the reasons for its decision. The reason often turns out to be "CLASSIFIED"; in certain more tense situations the response can have ominous explanations, such as "National Security" or elegant ones like "Executive Privilege." NSA learned, not surprisingly, that, particularly at Defense, the "Classified" stamp was used like an involuntary muscle: a request more often than not was followed by a twitch that said, "No." Large groups of employees at Defense are engaged in reviewing and evaluating material; it may seem just as simple to stamp the cover "Classified" and call it a day. It is possible to request the group's supervisor to review the decision, but often in those instances it seems easier, or more politic, for the supervisor to support a staff call.

Once NSA began to compile chronologies related to Iran-contra, or El Salvador, the Archive early on took the position that much of what was classified was light years from "top secret"; most would be open at the National Archives twenty years later. "We just decided to push the deadlines a little," Armstrong says.

Information advocates

In that process, NSA became the plaintiff in a series of cases, a chain of information that continues today and almost certainly changes the character of how NSA will be thought of in the future. The image of a rocking chair repository has been overshadowed by the aggressive image of an information advocate. The issues are meaty enough to have attracted some of the city's top legal talent pro bono, and Armstrong credits Ralph Nader's Public Citizen Litigation Group, Hogan & Hartson, Wilmer Cutler & Pickering, and others for much of NSA's success in court.

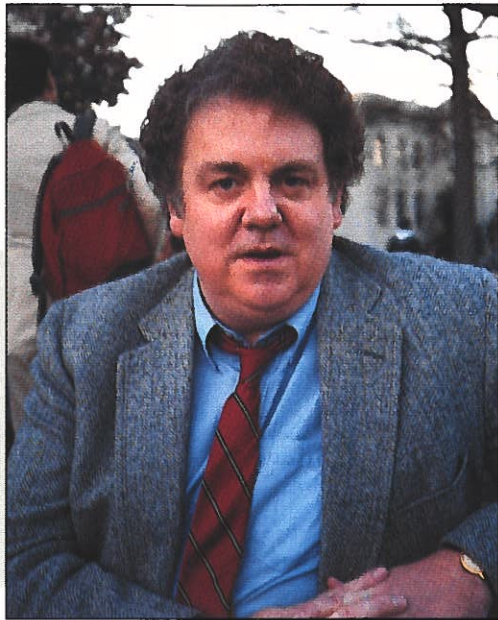
Librarians and the American Library Association, of course, are most familiar with the NSA in regard to the FBI's Library Awareness Program. Following the hearings held by Representative Don Edwards and the subsequent program guidelines that the agency and the congressional oversight committee seemed to agree upon, there was a period of quiet that suggested the FBI had turned in its library card. Last December, documents obtained by the Archive in a

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the agency must respond within ten days—although that deadline is often the first thing to get lost in the government quadrille.

The costs of FOIA requests are of considerable concern to NSA, which is aggressive in its voluminous requests for information. In 1986 FOIA amendments added to a narrowly germane bill by Senator Orrin Hatch (R-Utah) made it difficult for NSA to qualify for preferred, i.e., reduced, rates for FOIA requests. The Hatch modifications were intended to restrict reduced rates to only two categories of requesters, and neither of those was "any non-profit group that

dent on day ten with a letter stating it will be unable to provide the answer on time. Many agencies, including the FBI, are "starved for resources," according to Representative Don Edwards's (D-Calif.) statement at a recent House oversight hearing. The FBI has lost forty-three staff positions, while the number of annual requests has grown from 12,000 to over 16,000. Yet it is hard to feel that the FBI meets the intent of FOIA when its own data show that the Bureau's average response time last year for requests requiring more than inserting a piece of paper in an envelope was 326 days, more than double the re-



(left) Scott Armstrong, founder of the National Security Archive
(right) Tom Blanton, NSA deputy director

FOIA lawsuit revealed the subsequent background searches conducted by the agency on 266 people connected to the Library Awareness Program. NSA's analysis of the stack of documents handed over by the FBI determined that approximately 100 of those investigated were librarians. (NSA and some of its staff are ALA members.)

The documents also make it clear that although the FBI had told ALA that the visits had stopped after December 1987, they had, in fact, continued through 1988 and 1989. The ALA/NSA litigation continues in an effort to retrieve information that was excised or deleted from the documents released by the FBI. Originally ALA and the Archive filed FOIA requests with the FBI in July and September 1987; they filed suit in 1988 after the FBI failed to respond.

Despite the 1,200 pages of documents released by the FBI in December 1989, NSA believes what was withheld is likely to be equally revealing. Assisting NSA Counsel Sheryl Walter in future phases of the litigation is pro bono counsel Martin Wald, of Covington & Burling, Washington, with financial help from People for the American Way.

This network of legal and funding assistance is basic to NSA's operations. From its earliest days it has gotten more bang from the buck through outside legal assistance and generous support of its goals from a number of major foundations and sponsors. Support for The Making of U.S. Policy/Chadwyck-Healey Inc. docu-

ment sets alone comes from over twenty-five foundations ranging from Ford and MacArthur, to the Rockefeller Family Fund, to the Philip M. Stern Family Fund, to the Ottinger Foundation and from "dozens of individuals and law firms who have donated money, pro bono services and in-kind equipment to make the Archive possible." A line of credit from the Ford Foundation is a financial lifeline for the Archive. Armstrong, NSA Deputy Director Tom Blanton, and the organization's distinguished twenty-two-person board (chaired by John Shattuck, vice-president for government, community and public affairs, Harvard University) have been extremely skilled at what any organization most needs from its board: the ability to tap those organizations committed to similar goals.

Tom Blanton took some time to discuss the process that takes place at NSA, the levels of information that accrue around the particular matters that the Archive decides to focus on at a given time. According to Blanton, in any one year NSA has about sixteen ongoing projects, "with perhaps seven going through at full speed," and publications produced for about five of these. Outside sources may donate documents. NSA may bring in an expert to advise on what kind of FOIA requests to file, what documents it should be asking for to fill in the gaps in the documents that are publicly available. At the same time, the Archive may be involved in twelve to fifteen lawsuits, usually with other groups.

As information develops, it is com-

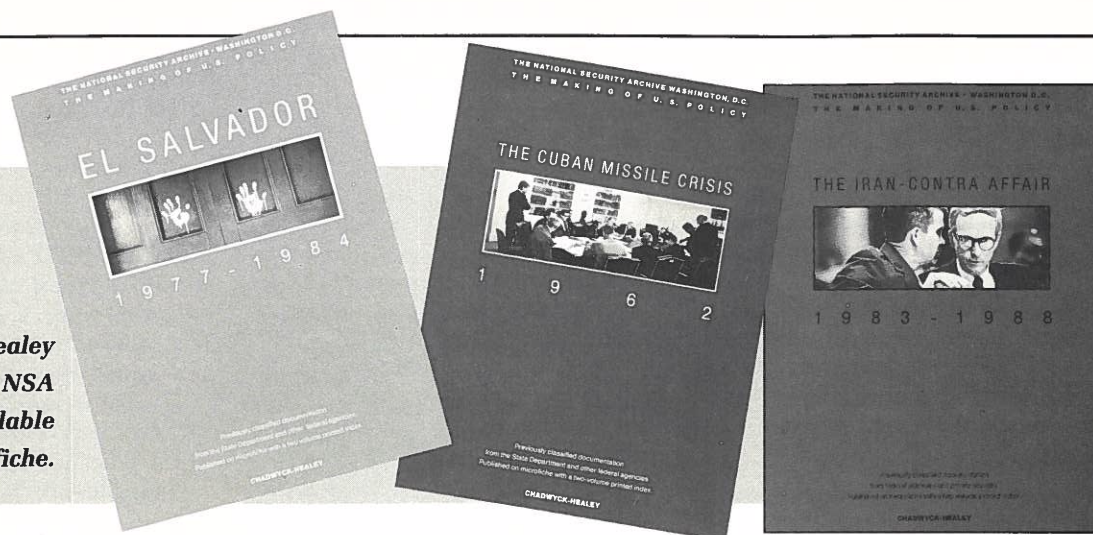
puterized and cataloged with indexing by names and dates to produce a primary glossary, organizational glossaries, and indexes. Researchers who go fishing can come up with person, place, time, documents, and more—whatever the bait.

Before the agreement with Chadwyck-Healey, NSA already had done considerable publishing independently. Most familiar, perhaps, are the NSA Chronologies. These fat paperbacks exemplify Tom Blanton's remark that "our research is devoted not to coming to conclusions about the event, but to pointing to the government document(s) about the event, and bringing that out to the public."

In 1987 Warner Books published *The Chronology: The Documented Day-by-Day Account of the Secret Military Assistance to Iran and the Contras*. Its 657 pages take the reader from January 1980 to April 8, 1987. Its 12-page cast of characters runs from "Abrams, Elliott (Assistant Secretary of State for Inter-American Affairs. Previously served as Assistant Secretary of State for Human Rights and Humanitarian Affairs. Coordinated inter-agency support for the contras. Worked closely with Lt. Col. Oliver North on the contra aid program, helping to solicit funds from third countries, including Brunei)" to "Weir, Benjamin (Kidnapped May 8, 1984, in Beirut. Released on September 15, 1985, after Israel shipped 508 TOW missiles to Iran. President Reagan is not sure whether he approved this shipment)."

In his introduction to *The Chronology*, Washington journalist Seymour Hersh

**Chadwyck-Healey
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wrote, “*The Chronology* tells us what happened, but not why. Its dry recital of events poses some questions that must be answered by the official investigators....Why was [Congress] so slow to learn and act? How valuable are the intelligence oversight committees whose function seems to be little more than to help the [Reagan] Administration provide a smokescreen for its real policies? Similarly, why didn’t the press do more to penetrate government secrecy?” No one can say NSA tries to duck the important questions.

The oversight function

In conversation, both Blanton and Armstrong come back again to the question of congressional oversight, not in a single policy matter but from an overall historical perspective. Both refer to a quotation (Woodrow Wilson, *Constitutional Government*, 1885) that they have obviously used before:

The informing function of Congress should be preferred to its legislative function. The argument is not only that a discussed and interrogated administration is the only sure and efficient administration, but more than that, that the only really self-governing people is that people which discusses and interrogates its administration.

When you listen to Armstrong or Blanton, you hear a deeply felt concern not only that Congress ignores and thereby dilutes its oversight function, but that we as a society are less and less concerned with the discussion and interrogation of our administration. As Frances FitzGerald wrote in her *New Yorker* piece “Iran-Contra” (October 16, 1989), “It has been three years since the first news of the

Iran-Contra affair broke, and still the story is incomplete. New documents and new details continue to make their way into the public domain, now in scraps, now in volumes. The trial of Oliver North filled in several pieces of the vast puzzle. Yet by this time the public has grown weary; the audience drifts away.”

NSA, on the other hand, hangs in there. On January 18, 1989, two days before he was to leave office, President Reagan instructed White House staff to erase their computer message system. This electronic message system, called PROFS (Professional Office System), has replaced memo pads in sophisticated institutions; although Colonel North had instructed that his PROFS messages be destroyed, he was unaware that they were magnetically stored. Much of the Iran-contra puzzle was able to be put together only because of the existence of these centrally stored tapes. NSA requested, and got, a temporary restraining order blocking the White House erasures. Administration counsel argued that the two million pages worth of notes from the administration’s last month were no more than jottings of the “Let’s change lunch to Tuesday” ilk. NSA’s counsel, Katherine Meyer of the Public Citizen Litigation Group, argued that these messages were part of presidential history and as such should be archived and ultimately made accessible. Many of the messages, she continued, are presidential records under the Presidential Records Act and, by destroying them in the past, the White House routinely broke the law. The suit, *Armstrong v. Bush*, also named as a defendant Don Wilson, the U.S. Archivist, for failing in his duties by allowing such records

to be erased. NSA was joined in this suit by the American Historical Association, ALA, the Center for National Security Studies, and Gaylord Nelson, the former Democratic senator from Wisconsin who cosponsored the Presidential Records Act in 1978.

Librarians need to be cognizant of the language of that act, which defines “presidential records” as “documentary materials...including electronic materials...created or received by the president, his immediate staff, or a unit or individual of the Executive Office of the President...which relate to or have an effect upon the carrying out of the constitutional, statutory or other official or ceremonial duties of the president.” (The act excludes agency records, which are subject to FOIA.) The wording suggests a signpost for the era we are just entering, when we are likely to see the definition of information broadened even beyond our twentieth-century imaginations.

Blanton noted that NSA is uncertain whether the case will be heard in the Court of Appeals. What is more important, he said, is our lack, under the law, of any guidelines for preserving this type of material. His hope is that the lawsuit may help to jump start the process. If it wins the case, NSA may not get to see the electronic records for twelve years, but they will still exist. And we would have established precise federal regulations that would apply to archival materials whatever their format.

Keeping the pressure on

At the same time that access to information at the highest level is front-page news, NSA also has taken on a lot of FOIA requests for people whose

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original requests go back eight or ten years and have never been satisfied. The decision in these instances turns on requests that still are open and relate to subjects in which NSA has a particular interest. Why not let tired old FOIA requests fade away? Read Taylor Branch's comments in his preface to *Parting the Waters; America in the King Years, 1954-63*.

I regret having to leave the record on Stanley Levison slightly ajar. Since 1984 I have sought the original FBI documents pertaining to the Bureau's steadfast contention that King's closest white friend was a top-level Communist agent. On this charge rested the FBI's King wiretaps and many collateral harassments against the civil rights movement. In opposing my request, the U.S. Department of Justice has argued in federal court that the release of thirty- to thirty-five-year-old informant reports on Levison would damage the national security even now. Almost certainly there is bureaucratic defensiveness at work here—and also, I suspect, some petty spy rivalry with the CIA—but so far the logic of secrecy has been allowed to reach levels of royalist absurdity... [T]he material being withheld denies the American public a common ground for historical discussion.

Changes may be ahead for NSA. With a "second generation" of leadership, there may be a greater emphasis on management efficiency and less on passion—not necessarily a negative, but change nonetheless. Yet NSA's agenda is unlikely to shift dramatically.

Devoted to research, collection, and indexing and its role as library, litigant, adversary, and advocate, NSA is shaping a distinguished place for itself in enlarging that "common ground" where information flows freely to those who need it professionally, and to those who need it in order to participate fully in an informed democratic society. ■