

# A Fight Over Government Information

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WASHINGTON, Jan. 5 — The National Security Archive officially opened its doors Friday. But even before that, the Archive, a research institute and collector of national security information, was locked into a sharp dispute with the Reagan Administration over questions concerning access to Government information.

The Archive says the Administration is deliberately making it hard for it to obtain declassified Government documents legally. It has filed a lawsuit in United States District Court contending that Government officials are unfairly administering the Freedom of Information Act by refusing to waive fees for the processing of the Archive's requests.

"The Government is creating new barriers to make it more difficult for us," said Scott Armstrong, a former Washington Post reporter who is executive director of the Archive.

For its part, the Administration asserts that the Archive is trying to take unfair advantage of the Freedom of Information Act by, in effect, building up a library at Government expense. In addition, Stephen J. Markman, an assistant attorney general, says the Archive's efforts could lead to the disclosure of sensitive Government secrets.

What both sides seem to agree on is that the dispute has far-reaching implications for Administration policy on disseminating Government information.

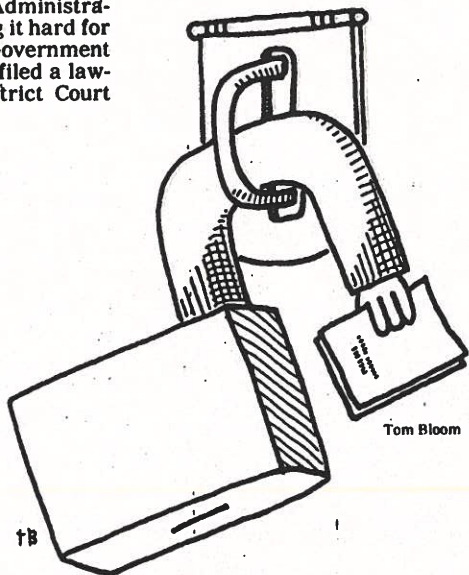
## How the Idea Started

The concept of a library on national security information goes back several years. In 1984, Mr. Armstrong, who has aggressively used the Freedom of Information Act for a book he is writing on foreign policy issues, decided to pool his collection of Government documents on Central America with documents obtained by Raymond G. Bonner, a former reporter for The New York Times.

Mr. Armstrong said he later came up with the idea of using this collection as the basis for a larger library of Government documents that would cover a range of issues and maintain a staff of experts.

Some researchers and reporters, such as Fred Kaplan of The Boston Globe and Patrick E. Tyler of The

## The National Security Archive says the Administration is 'creating new barriers.'



Tom Bloom

Washington Post, have donated their documents to the Archive. And with its main financing from the Ford and MacArthur Foundations, the Archive is now under way.

The Archive, operating from rented space at the Brookings Institution, currently has a staff of 28, including a Middle East scholar and a former Justice Department official who is familiar with the Freedom of Information Act and Government security classification procedures.

Reporters and researchers are allowed to review the Archive's documents without charge. To recover some of its expenses, the Archive plans to sell indices of its collection and microfilm of some of its sets of documents.

But the Archive and the Adminis-

tration have been on a collision course almost from the start, partly because Mr. Armstrong has been an unpopular figure among Government administrators of the act.

In working on his book, he filed more than 2,000 requests over a five-year period and disputed denials of information.

"The people at the Justice Department have a mania about two things: One is Scott Armstrong and the other re-selling Government data," said one Congressional expert.

The current dispute centers on the question of whether the Archive should have to pay the cost for processing Freedom of Information Act requests.

Under the current law, such fees are often waived for public interest organizations and the press.

Mr. Armstrong says the Defense Department is not waiving the fees and that the Justice Department is "orchestrating" a Government-wide denial of fee waivers on Archive requests. "They know that for a non-profit, educational organization like the Archive, denials of fee waivers amount to denials of access," he said.

## 'Basically an Ideologue'

He also said that the tax-exempt research center, serving scholars and the public, was exactly the kind of organization that ought to qualify for waivers of fees. It will not make a profit from documents it plans to sell to libraries, he added.

He contended that Mr. Markman was "basically an ideologue who does not believe in the F.O.I.A."

Mr. Markman, who formerly worked on the Senate Judiciary Committee for Senator Orrin G. Hatch, a Republican from Utah, took strong

exception to these assertions.

"It is not a question of openness," he said. "The question is whether one individual can use the act for an unanticipated purpose to build up a library at public expense without any clear public interest."

He said the Archive's plans to sell sets of documents suggests that it is a commercial "broker" of Government information and not a research organization that serves the public interest.

In an August speech, Mr. Markman also suggested that another concern was that the requests filed by the Archive could lead to the disclosure of sensitive information. "There will always loom the specter of sensitive classified information inadvertently being disclosed as a result of so massive a barrage being aimed at national security agencies," he said.

## Researchers of Two Minds

For their part, some researchers who use the Freedom of Information Act are sympathetic to Mr. Armstrong's legal argument but are worried that the dispute might sour the relationship between the Administration and other frequent users of the act.

Experts say the final determination of Mr. Armstrong's case will probably turn on the court's reading of new provisions of the act that are due to take effect this spring. Among other things, they would make it policy for the press and scholarly organizations to routinely qualify for waivers of fees on searching for and reviewing requested documents.

Senator Hatch has argued that the new provisions mean that the Archive should not qualify for a waiver. But Senator Patrick J. Leahy, a Democratic member of the Judiciary Committee, strongly argued last fall that any organization that regularly provides information to the public should qualify for a waiver under the new provisions.

Mr. Armstrong is optimistic that the Archive will prevail in the courts. But experts project a drawn-out fight.

Said one Congressional staff member: "If Armstrong wins, the Justice Department will fight him. They'll fight him all the way to the Supreme Court."