

Justice Dept. Approach Seen Imperiling Rights

Poole, Former U.S. Attorney, Warns Against 'Tough Image,' Cites Panther Case

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SAN FRANCISCO—The Justice Department is coming dangerously close to encroaching on civil liberties and Bill of Rights safeguards in its zeal to appear as a tough law enforcement agency, says Cecil F. Poole, until last week one of the department's key employees.

Poole resigned Jan. 31 as U.S. attorney, five months before the end of his second four-year term. He was the nation's first Negro U.S. attorney and one of the last Democratic holdovers among the country's 93 federal prosecutors.

Before leaving office, Poole said that justice was "out to get" the Black Panthers. He elaborated on this and other matters later in an interview in a cramped, temporary office he has rented in downtown San Francisco.

"I think the Department of Justice has a commitment to do those things which furbish its image as a tough law enforcement agency," said Poole, a slender, athletic-looking man in his 50s.

Attorney Team

"In so doing, it is apt to tread dangerously close to those actions we thought we've progressed beyond," he continued. "Prosecutions are heavily involved in the area of one's beliefs and ignore the sensibilities of the Bill of Rights."

evidence when you have violated statutes of the United States."

There is cooperation between Justice, the FBI and local police, but that is not unusual, he said, and it does not constitute a conspiracy.

As an example, Poole said Justice Department attorneys assigned to special detail in San Francisco for a grand jury probe of the Black Panthers have resorted to the Smith Act as a basis for prosecutions, or at least investigations of Panthers.

The 1940 act makes advocating the overthrow of the government a criminal offense. Its use has been heavily restricted by Supreme Court decisions, and it has been a target of civil libertarians as an unconstitutional curb on the right of free expression.

The team of attorneys, part of a special intelligence unit which Poole said is moving against Panthers throughout the nation, attempted to prosecute Panther chief of staff David Hilliard under a provision of the Smith Act covering advocacy of assassinations of public officials, according to Poole.

Accused of Threat

Poole objected to the procedure and Hilliard was ultimately indicted under the law that makes it a crime to threaten the life of the President. (Hilliard is accused of saying, "We will kill Richard Nixon," at an antiwar rally in San Francisco on Nov. 15, 1969.)

Poole also believes that the recent subpoenas of reporters' notes on the Panthers by the same Justice Department team was an effort to advance the theory of a "Smith Act" plot before the grand jury. Those records, he added, were subpoenaed without Poole's knowledge or approval.

Poole said the team—two lawyers began the probe last spring and two others picked it up last fall—was assigned without consulting him, and that he had deliberately stayed away from the investigation.

Internal Threat

The Justice Department's interest in the Panthers, Poole said, lies in its belief that the organization represents a serious internal threat to the country. "But," he added, "the pursuit of the Panthers fits admirably in the political context of law and order and elimination of crime in the street."

Poole hastened to add that Panther charges of a conspiracy between the federal government and local law enforcement officials to eliminate the Panthers were "utter, sheer nonsense. When I said the department was 'out to get' them, I didn't mean it was interested in the execution of these people. The Department of Justice 'gets you' by getting