

Some Police Censorship Goes Beyond Court Rulings

By BARRY SCHWEID

WASHINGTON (AP)—Judges and police across the land, doing what they think the Supreme Court wants them to do, are putting strong curbs on how the press reports crime news.

An Associated Press survey turned up numerous instances of stiff restrictions imposed by courts and law enforcement officers on newsmen, photographers and cameramen who cover police stations and courtroom trials.

It may be that the restrictions go further than the Supreme Court had in mind in a series of "fair trial" decisions climaxed last spring with the freeing of Dr. Samuel H. Sheppard because "virulent publicity" surrounded his first murder trial.

In throwing out the Cleveland osteopath's second-degree murder conviction, the court said it is up to judges "to take such steps by rule and regulation that will protect their processes from prejudicial outside interferences."

The movement to immunize juries from prejudicial news accounts gathered force last month when an American Bar Association study group recommended that in pending criminal cases police, prosecutors and defense attorneys be barred from making public "potentially prejudicial information."

Since then, judges and police officers have been issuing new rules telling the press what crime information they will be permitted to have and what procedures they must follow in reporting arrests and trials.

Yet, the Sheppard decision itself said "There is nothing that proscribes the press from

reporting events that transpire in the courtroom."

And while the bar group recommended withholding certain types of information from news media, it also said:

"The committee does not believe that the present resolution of the problem confronting us lies in the adoption of direct restrictions on the media."

Justice Tom C. Clark, who

wrote the Sheppard decision for the Supreme Court, told the Denver Post recently that nothing the court has ever said prohibits district attorneys and police from releasing information about a crime before there is a suspect.

Last summer, he told the National Conference of State Trial Judges, meeting in Montreal, that the Sheppard decision "laid down guidelines the courts might follow, not guidelines they must follow."

"We do not have to jeopardize freedom of the press," the white-haired jurist, a former U.S. attorney general, said. "The press has made sure our democracy works as it should."

The AP survey showed, however, that judges and law enforcement authorities are citing both the Sheppard decision and the ABA group's recommendations in restricting the press before trial as well as during trial.

When Dr. Robert Spike, a noted theologian, was slain in Columbus, Ohio, police officials were reluctant to speak on the record or to be quoted by name.

"We possibly might solve this case," said Detective Capt. Tom Sawyer, "and I'm not going to

blow it by making a false statement or even a true one prematurely."

In Charleston, W.Va., Chief of Police Dallas Bias said the Sheppard decision was still being evaluated, but meanwhile "our entire department is under orders to release only the name of the individual arrested and the charges against him."

"We don't want to jeopardize our cases," Bias said.

Here are some specific examples of pretrial clampdowns elsewhere:

—In Boulder, Colo., authorities refused to discuss their investigation into the fatal beating of a University of Colorado coed, claiming that if they did they might endanger prosecution once the slayer was arrested.

The Boulder officials would not even give the address of the

house where the girl had lived. All this silence preceded the arrest of a janitor at the university.

—In Duluth, Minn., the chief of detectives referred reporters' questions about the death of a Duluth woman to the county attorney, sitting beside him. He, in turn, shook his head and cited the Supreme Court.

Newsmen were able to determine only that the woman had died mysteriously. Later they were told her husband had been charged in her death.

—In Luray, Va., when a 26-year-old tannery worker and father of five was fatally shot, newsmen ran into a wall of silence in trying to pry details from officials. The silence per-

sisted for a while even after a veteran patrolman issued a statement saying he had shot the man in self-defense.

—In Binghamton, N.Y., City Judge Walter Gorman said he would not exclude reporters from a hearing provided they promised "not to report any of the testimony to any news media."

—In Orange County, Fla., Judge Douglas S. Lambeth granted a defense motion forbidding police and lawyers from talking to reporters before the trial of a woman on charges of running a house of prostitution. He also imposed several restrictions for the trial itself.

When news media attorneys complained, Lambeth said, "No one has quote me law where it says the public has a right to know. I believe that it does, but the purpose of a criminal trial is not to inform the public of anything."

In Freehold, N.J., the day after Dr. Carl Coppolino entered a mandatory plea of innocent to a murder charge, Superior Court Judge Elvin R. Simmill instructed the Monmouth County prosecutor's office and the sheriff's office to make no further public comment on the case.

Simmill said he wanted to prevent newspapers from "making a Roman holiday out of this trial" and that he based his decision on the Sheppard case.

During the trial stage itself, restrictions appear more prevalent. They sometimes extend beyond the courthouse. For instance:

—Judge Marvin D. McLaughlin of Starke Circuit Court, Knox, Ind., told newsmen at the trial of George L. Manos on a

back robbery charge that Manos could not be photographed in the courtroom, the jail—or even in the public street between the two.

—In Fort Lauderdale, Fla., Circuit Judge Jose Gonzalez Jr. ruled no photographs could be taken in or near his courtroom during a murder trial.

Within courthouses there were these sorts of curbs:

—In San Francisco, Judge Norman Elkington ordered jurors in a murder trial not to allow themselves to be photographed or spoken to.

—In Indio, Calif., Superior Court Judge Warren E. Slaughter has ruled the press cannot have access to the day-by-day court transcripts of a murder trial.

—In New York City, at the opening of the trial of Ernest Gallashaw, 17, on charges of shooting a 10-year-old boy during a racial disturbance, State Supreme Court Justice Julius Helfand directed that no one involved in the trial talk to reporters. Gallashaw subsequently was acquitted.

—In Cleveland, Ohio, at Sheppard's second trial, Common Pleas Judge Francis J. Tally has barred cameras, sound recording devices and stenographic machines and specified the order in which seats for the press were to be reserved.

—In Morganton, N.C., Superior Court Judge Francis Clarkson told the publisher of the News-Herald that if the newspaper printed anything in addition to the fact that a murder trial was in session and the charge against the defendant, it would be held in contempt of court.

The judge issued his directive after granting a continuance of the trial on the basis of a defense contention that a story carried by the newspaper and the local radio station would interfere with a fair trial. When the trial finally was held it was reported routinely and no contempt action was taken.

—In Springfield, Mass., Superior Court Judge Robert H. Beaudreau fined Margaret Shaw, a reporter for the Springfield Union, \$100 for contempt of court.

Miss Shaw was cited after writing a news story containing testimony given at a narcotics trial. Beaudreau said she had been warned twice not to publish testimony given while the jury was excluded from the courtroom.

The contempt power can be a potent weapon and the bar asso-

ciation panel dealt carefully with the subject. It recommended that its use be confined to flagrant instances of misconduct and not be expanded.

Clark, in his Montreal talk, rejected any suggestion that the Sheppard decision was an invitation to trial judges to use the contempt power to crack down on the press.

The Arizona Supreme Court has issued a significant ruling in this area.

Superior Court Judge E. R. Thurman had ordered a Phoenix reporter not to report details of a ruling at a habeas corpus hearing in a murder case.

But the State Supreme Court held Phoenix newspapers had the right to report the hearing despite the judge's order.

Arizona Chief Justice Fred C. Struckmeyer wrote:

"The restraint imposed by the trial court in this case strikes at the very foundation of freedom of the press by subjecting it to censorship by the judiciary."

In a concurring opinion, Vice Chief Justice Charles S. Bernstein declared:

"I hold to the assertion that full disclosure of the trial proceedings contributes to the efficiency and integrity of the criminal process and believe that the moment we permit other than full disclosure we are heading toward the complete and impenetrable secrecy reminiscent of the days of the star chamber."

In Los Angeles, another significant court case is in the embryo stage.

Eason Monroe of the American Civil Liberties Union has filed suit in Superior Court asking for an injunction to bar the district attorney, the chief of police and other local law enforcement officials from issuing any public statements about arrested individuals prior to trial.

"In no sense is this an attempt to limit or abridge freedom of the press," Monroe said. "A public record of arrests is available to the press. Additional and possibly prejudicial comments add nothing to a free press and threaten a possible retrial."

Several newspapers and newspaper groups have entered the case as "friends of the court" and against Monroe's suit.

In the national survey the free press - air trial picture was found to be anything but uniform. In several areas no change was reported.

In Los Angeles, for example, Police Inspector Ed Walker said: "We haven't changed our procedures. We try to be reasonable."

In Toledo, the Blade and the

Times adopted a code of guidelines limiting what will be published in criminal proceedings. Except in special circumstances, prior criminal records of the accused will be withheld as well as confessions or incriminating statements.

In Wisconsin, State Atty. Gen. Bronson C. La Follette recommended that enforcement officers follow U.S. Justice Department guidelines. These specify what sort of information should be released to the press and what sort should be withheld.

At the same time, La Follette told the officers in a memorandum:

"It recently has been brought to my attention that a small minority of Wisconsin law enforcement officers are refusing to release any information whatsoever to the press and are justifying their action on the grounds that the guidelines prohibit the release of information.

"This position is patently fallacious, not in the public interest, harmful to law enforcement."

A pertinent comment came from Hu Blonk, managing editor of the Wenatchee (Wash.) Daily World and chairman of The Associated Press Managing Editors' freedom of information committee.

Blonk said: "In the Sheppard case you'll find that of the nine specific incidents that were cited by the U.S. Supreme Court as prejudicial against Sheppard, eight occurred after the trial started.

"Thus nearly all the causes for reversal in favor of Sheppard could have been eliminated if the judge had had the good judgment to isolate the jury in this highly sensational case, an error for which the Supreme Court roundly criticized him.

"Since the Supreme Court decision was issued, Justice Tom Clark, who wrote the majority opinion, has clearly stated in public that the court intended no muzzling of the press.

"It's my feeling that some judges are purposely going beyond what the Supreme Court intended in clamping restrictions on news media such as threatening to cite them for contempt of court if they print what happens in open court with the jury out — in the hope that news media will disobey the ruling, be cited, and then take the case to the U.S. Supreme Court, where, the judges hope, a clearly spelled out restriction on the press will be issued."

study of dark alleys in the city.

The aldermen, in response to requests from citizens in various parts of the town, asked Main to compile a list of areas where poor lighting conditions exist, and asked the engineer Robert J. Rothenhoefer, to determine the approximate cost of proper lighting for the areas listed by the chief.

When costs are determined, the aldermen will decide whether to install the required light-

ing immediately or to wait and include it in the next budget.

Some alleys—mainly in the northwest area of the city, where a prowler has been active for the past several months have been patrolled by City Police.

that its colors are the same as those of the House of Baltimore, the patrons of the colony of Maryland.