

# Film Subpoena Creates First Amendment Issue

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Federal authorities here have attempted to obtain secret film taken of the fugitive Weather Underground organization, only to run into a sensitive First Amendment controversy.

The controversy surfaced this week with news reports that a federal grand jury had subpoenaed film, negatives and sound tracks of a documentary in production about the Weather Underground, a militant group of radicals whose leaders are wanted for bombings and other federal violations.

The subpoenas were withdrawn Thursday for reasons the authorities have not made known. But the film making team, led by anti-establishment film-makers Haskell Wexler and Emile de Antonio, today condemned the federal actions as harassment and violations of their rights for free speech under the First Amendment.

The moviemakers admitted they had been filming Weather People for some time, and claimed the action by federal authorities had forced them to discontinue without completing the picture.

Government sources said today that the controversy arose out of an alleged filming of several fugitive Weather Underground leaders a few weeks ago during a doctors' strike in Los Angeles.

The sources said that the Weather group—possibly in-

cluding fugitives Bernadine Dohrn, Jeff Jones, Cathlyn Wilkerson and Kathy Boudin—was seen at Martin Luther King Hospital in Watts, posing as reporters for a local television station.

With them according to authorities, were Wexler, de Antonio and possibly two other members of the film-making group—Wexler's son, Jeff, and a woman named Mary Lampson. Authorities said that the Weather People were interviewing strikers and filming the demonstration. It was not clear why the group might have been doing this. The moviemakers declined to answer questions about the incident.

Prior to the incident, the sources said, authorities did not know the Weather Underground leaders were in the area. The information was presented to the grand jury, it is understood, with the intention of identifying individuals who might be harboring the fugitives.

It was in this connection that the film-making team was subpoenaed to appear next Thursday and to bring "any and all motion picture film, including . . . negatives, working copies and prints and all sound tracks and sound recordings" involving the Weather Underground.

The subpoenas were suddenly withdrawn Thursday. Sources said the move, in consultation with the Justice Department, was at least partly related to legal questions surrounding the First Amendment issue. Courts have found that journalists are protected from grand jury inspection of

their notes unless an overriding national interest is shown. But the application to film-makers is a subtler legal question with little or no court precedents, except as regards obscenity cases, the sources added.

Authorities have not ruled out the possibility that the subpoenas might be reissued. But the four film-makers, surrounded by a number of attorneys and well known Hollywood figures, told a news conference today they would resist relinquishing their film under any conditions.

Wexler, who is best known for his semi-documentary film about the Chicago Democratic National Convention of 1968 ("Medium Cool"), and De Antonio, who authorized and filmed "Millhouse," a satire on Richard M. Nixon, admitted that they had secretly been filming the Weather Underground movie for months.

Wexler claimed that in the past three weeks the FBI "has tailed me, tapped my phone, photographed my house, my cars, and spied from a hillside with binoculars." He said that the group's lawyers, which include Michael Kennedy of San Francisco and Charles Nessen and Leonard Boudin of Boston, would file suit seeking to enjoin these and other "harassments" sometime next week.

Present at the conference in support of the film-makers were directors William Friedkin, Hal Ashby and Rob Wise; producers Bert Schneider and Daniel Melnick, and actor Keir Dullea. A list of some 30 other Hollywood supporters was distributed.