

Paper Asks Quashing Of Bug Case Subpoena

By Lawrence Meyer

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The Los Angeles Times and two of its reporters argued yesterday that if they are forced to reveal confidential material given them by a key prosecution witness in the Watergate bugging case, the decision would have a national impact and "would ... directly erode the people's right to know."

To buttress their position, the newspaper and the reporters filed affidavits from a wide variety of reporters and former government officials including James C. Hagerty, press secretary to President Dwight D. Eisenhower, who said confidential agreements are "crucial to the newsgathering function of the media in the United States."

The Times and the two reporters, Jack Nelson and Ronald J. Ostrow, filed separate motions asking Chief U.S. District Judge John J. Sirica to quash a subpoena requiring the Times to turn over tapes and other materials from

more than five hours of interviews with Alfred C. Baldwin III.

Baldwin is expected to be a key government witness in the trial of seven men charged with the June 17 break-in and alleged bugging of the Democratic National Committee's Watergate headquarters. On Oct. 5, the Times published a first-person account by Baldwin, as told to Nelson, of how he monitored telephone conversations at Democratic Party headquarters from a motel across the street.

At the defense's request, Sirica last week ordered the Times to produce the tapes and other materials from interviews conducted with Baldwin by Nelson and Ostrow. The materials are to be produced in court today under the subpoena issued.

If Sirica refuses to quash the subpoena and the materials are not produced in court today, the judge could cite Ostrow, Nelson and Times' Washington bureau chief John Lawrence for contempt of court.

The Times and the two reporters have said that they will appeal an adverse decision to the Supreme Court, if necessary, in order to avoid producing the materials.

Nelson and Ostrow filed affidavits yesterday stating that the interviews with Baldwin had been conducted with the explicit agreement that nothing would be disclosed without Baldwin's approval.

Besides the affidavits filed by Hagerty, Ostrow and Nelson, sworn statements were presented by Clark R. Mollenhoff, a Pulitzer Prize winner, former White House aide under President Nixon and now Washington bureau chief of the Des Moines Register; Robert J. Manning, editor-in-chief of the Atlantic Monthly and former assistant secretary of State for public affairs under Presidents Kennedy and Johnson; Edwin O. Guthman, national news editor of the Los Angeles Times and special assistant for public information to former Attorney General Robert F. Kennedy; John Seigenthaler, editor of the Nashville Tennessean and administrative assistant to Robert F. Kennedy in the Justice Department; and CBS news correspondent Fred P. Graham.

In his own affidavit, Ostrow states that he has "regularly" guaranteed news sources "that I would not disclose their identity and also that I would honor their request not to report certain information that they provide only for the purpose of explaining to me the total context of a situation."

Ostrow, a reporter for 16 years, said that his ability "to report effectively" on the Justice Department, his assign-

ment for almost seven years, "is attributable to the reputation I have earned for keeping confidences and never violating an agreement with a source."

Turning over the materials from the Baldwin interview would damage his reputation and deny him the ability to promise to respect confidential information in the future, Ostrow said. "Beyond the effect on me would be the severe impact such developments could have on the willingness of other sources to talk to reporters about matters that might wind up in litigation."

If the subpoenas were enforced against the Times, Nelson and himself, Ostrow said, defense attorneys "throughout the nation" would be encouraged to subpoena the notes of reporters who have talked to government witnesses. "Such a development would inevitably deter individuals both in and out of government from giving any information to reporters and would thus directly erode the people's right to know," Ostrow said.

Hagerty, President Eisenhower's press secretary for eight years and now a vice president of ABC, said that confidential agreements are "crucial" so that reporters can avoid "inadvertently present-

ing incomplete or inaccurate accounts."

If such subpoenas or the "possibility" of subpoenas becomes known to news sources, Hagerty said, "it is my opinion that these sources would soon be fearful of supplying reporters and correspondents with information on a confidential basis."