

Telephone Records Of New York Times Subpoenaed by IRS

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The Internal Revenue Service said yesterday it has obtained records of New York Times telephone calls in an effort to determine the source of confidential IRS information leaked to the newspaper.

An IRS spokesman said the agency had subpoenaed and received telephone records from the C&P Telephone Company here covering more than 2,500 toll calls by reporters and editors of the Times' Washington bureau at 1920 L Street NW.

The spokesman said the action had been taken "because of an allegation that information about a tax case had been leaked by an IRS employee," and presumably given to the Times.

The Times reported in yesterday's editions that it had learned of the subpoena from the Washington law firm of Wilmer, Cutler & Pickering, which represents the Reporters' Committee for Freedom of the Press.

The subpoenaed records cover the period from June, 1973, to last month. The disclosure results from the reporters' group asking the American Telephone and Telegraph Co. last fall to disclose if it had furnished to law enforcement agencies within the past five years the telephone records of about two dozens newspapers, television networks and individual reporters.

AT&T complied a little more than a week ago, revealing that the telephone records of five members of the group had been subpoenaed or turned over without subpoena, including records of the St. Louis Post-Dispatch; Knight newspapers and Lee Whitten, an associate of columnist Jack Anderson.

The Times' records were the only ones subpoenaed by the IRS, according to Lloyd N.

Cutler, partner in the law firm.

Cutler said the request to AT&T "was a test" to see if the company would reveal such transactions with law enforcement agencies. He said he expected other requests will now be made, since there may well have been subpoenas of other reporters' or news media telephone records.

Cutler said he was astounded that IRS had used "a blunderbuss technique just to find out if the telephone number of one IRS employee showed up." He said he was particularly disturbed because of the threat to the First Amendment's freedom of the press provisions if the government can obtain records of persons reporters talk to.

The IRS subpoena was served on C&P Jan. 3 "in the matter of tax liability" involving the Times bureau telephone number, which, the subpoena said, is "the business address of David Rosenbaum." Rosenbaum is a Times reporter who has been covering the Watergate investigation.

Rosenbaum said in The Times story that he had no knowledge that his tax returns were being audited in connection with any "tax liability" but said that "one possible explanation of the IRS interest in my phone calls is that I have been working on a story about a large contributor to President Nixon's re-election campaign. I have been checking reports that this contributor has been under criminal investigation by the IRS."

The Times offered no explanation of why it thought the IRS had subpoenaed its bureau's telephone records.

Rosenbaum said yesterday he was not on the list of the two dozen reporters and papers that had asked AT&T for

information but that he plans to ask now if AT&T has any record of his home telephone records being subpoenaed by the IRS.

The IRS said yesterday it would not disclose information about any other subpoenas of news media telephone records it might have made, and was commenting on The Times incident only because "it has been publicly disclosed."