

DA TAKES STAND, ACCUSED
OF ERBAKING NEWS GUIDES

An attorney for Clay L. Shaw today accused District Attorney Jim Garrison of violating guidelines set up by the judge restricting publicity about the case.

The charge came after Garrison took the witness stand

in a hearing on Shaw's motion for a change of location of his trial. Shaw, 54, is charged with conspiracy in the assassination of President John F. Kennedy.

Judge Edward A. Haggerty Jr., who set up the guidelines



WITNESSES MARK LANE, PERRY R. RUSSO; JUDGE EDWARD A. HAGGERTY JR. ARRIVE FOR HEARING

in the first place, said he would deal with any violation of them when the case is tried.

BUT F. IRVIN DYMOND, Shaw's chief attorney, argued that "the idea that this witness is violating guidelines obviously shows that adverse publicity is affecting our client."

The motion for a change of venue is based on the defense's claim that Shaw cannot get a fair trial in New Orleans because of widespread publicity about the case.

Dymond said his client is accused of conspiring to kill the President, and that the state first has to prove that a conspiracy existed.

HE SAID THAT GARRISON is "indoctrinating the public to the effect that a conspiracy did exist. If successful, he has removed one element that the state would have to prove in court."

This exchange came as Dymond questioned Garrison about a lengthy press release he sent the news media this morning. Garrison contended in the release he has con-

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sistently avoided making public statements which would reflect on Shaw's guilt or innocence.

Later, Dymond asked Garrison if he permitted Life magazine to photograph any of the items taken from Shaw's house after his arrest. The judge sustained the state's objection to the question.

He then asked the DA if he caused certain physical items confiscated from his house "to be taken to your home to be exhibited?"

"Yes, we brought some of the whips out and his executioner's outfit," Garrison answered.

Asked who was present, Garrison said "Dick Billings of Life . . . and another Life reporter from out of town."

Garrison, clad in a blue checkered sports coat and blue slacks, took the stand shortly after the noon recess. He had been called before noon, but Judge Haggerty decided to save his testimony until after lunch.

EARLIER, DYMOND SAID GARRISON would probably be on the stand all afternoon.

Shaw, the accused, appeared in a chipper mood as he arrived just before the scheduled 10 a. m. start of the hearing. He arrived by car, dressed in a gray suit. Tight security precautions were in effect.

The morning session was taken up with testimony from television station engineers concerning the range their stations cover and the acceptance of records subpoenaed from news media.

The judge said today's session would continue to 5 p. m. and there will be no night sessions because of security problems.

HANDLING THE CASE FOR THE STATE was assistant DA James L. Alcock.

George W. Healy Jr., executive editor of the States-Item and The Times-Picayune, turned over all copies of stories on the Shaw case since last March 1.

William Reed, news director of WWL-TV, gave the court a 60-minute sound film compilation of the station's coverage of the case.

Ed Planer, news director of WDSU-TV, presented a box of films and tapes. Alec Gifford, news director of WVUE-TV, presented records of TV opinion polls and special programs.

Judge Haggerty said no films would be shown today. Only oral testimony would be permitted, he said.

As court opened this morning, two new witnesses were subpoenaed by the defense. They are:

Mrs. Rosemary James, a

reporter for the States-Item.

Richard Dowling, president of the Criminal Courts Bar Association.

Both were handed subpoenas on the scene. Of the 23 persons subpoenaed earlier, 21 appeared on schedule this morning.

The two missing were comedian Mort Sahl, who was reported to be in San Francisco, and Harold Lidin, reportedly in Puerto Rico. Another witness, author Mark Lane, said Sahl would be available if needed.

Lidin, it was reported, has been reassigned to Puerto Rico by his employers, Screen Gems.

THE FIRST business was the acceptance of records subpoenaed from the States-Item, The Times-Picayune, WWL-TV, WWL radio, WDSU-TV and WVUE-TV. They consisted of news stories on the case.

Perry Raymond Russo, a key state witness, had been subpoenaed to bring in copies of speeches and interviews he had given about the case. He told Judge Haggerty he possessed no such copies, and the defense accepted his explanation.

A brief argument flared concerning a subpoena denied earlier by the judge for press releases and other material issued by Garrison. Shaw's attorneys asked last week that the material be subpoenaed but the request was denied. This morning they argued the material should have been subpoenaed and then its admissibility could be argued.

HAGGERTY AGAIN ruled against them, on grounds the press releases were either in the material subpoenaed from the news media or were never

used, in which case they would be irrelevant because they could not influence prospective jurors.

In presenting the records from the States-Item and The Times-Picayune, Executive Editor George W. Healy Jr. asked that the clippings be returned to the newspapers' library and that copies of the papers be used by the court. Haggerty agreed.

The defense began calling witnesses at approximately 11 a.m., following Haggerty's decision on the Garrison subpoena.

The first witness to take the stand was Francis Jacobs, chief engineer for WWL-TV.

DYMOND ASKED Jacobs to testify as to the range of his station. He said that the range extends to 75 to 80 miles and offered to produce a map showing the viewing area.

Jacobs broke down the areas which receive pictures from the station into three classes.

In Class A, said Jacobs, viewers could pick up a signal at all times and this range extends about 40 miles.

He said Class B extends to 70 or 75 miles and Class C area has no limits, depending on conditions under which transmission is made.

Dymond submitted a map of the reception area marked for evidence "D Venue 1." Judge Haggerty noted that, "I've caught channel 4 in Biloxi (Miss.) and that would be about 95 miles."

Jacobs acknowledged that this was true, but observed it was probably possible because an antenna taller than 30 feet was used.

JACOBS, IN answer to questions, testified the station is on the air from 18 to 20 hours a day, seven days a week, and 12 months a year.

Jacobs testified that a 1966 survey showed 1,926,000 possible viewers for WWL-TV and that this figure has now increased to about two million viewers.

He also said the station has broadcast continuously since March 1 of last year.

Alcock questioned Jacobs on the two million figure. He asked if this wasn't just an estimate. Jacobs answered that this was not a census, but was contained in a publication called Sales Managers Magazine and the publication's figures are generally accepted in the industry.

Alcock also asked Jacobs if the figure did not represent "people who could be possibly tuning in." Jacobs replied that this was the "available" audience.

HAGGERTY SUSTAINED objections by the state when Dymond sought to have Jacobs testify to the content of a report on listener audience by the American Research Bureau.

The report would apparently delineate the number of viewers in the WWL-TV market.

Alcock said such testimony was out of the scope of the witness and that such figures would represent "rank hearsay."

Haggerty agreed, but said the defense was free to place another witness on the stand who could give such testimony.

The next witness was Lindsey G. Riddle, chief engineer for WDSU-TV, who testified that channel 6 can reach a potential of 614,000 households, including its fringe area.

Allan Gunderson, chief engineer for WVUE-TV, testified that channel 12, not including any fringe area, has a range of 63 miles east and west and 54 miles north and south.

DYMOND WAS attempting to obtain information from these three witnesses about how many are actually in their viewing audiences.

Alcock objected and the court ruled that this was in the field of sales promotion and marketing. Dymond then asked that the sales managers of the three TV stations be subpoenaed.

Judge Haggerty agreed to the subpoenas.

One attorney suggested that any one of the three sales managers be qualified to give

these figures for all three TV stations. Haggerty said, however: "I would expect each station would like to say they have more than they have," and he decided to call all three.

As court resumed this afternoon, Judge Haggerty ruled admissible as evidence a report prepared by the American Research Bureau on the number of news program viewers in the area.

In doing so, he overruled objections by the state that the report is hearsay.

JUDGE HAGGERTY said, however, that although the report is admissible as evidence its weight as evidence could be questioned.

John Dolan, sales manager of WDSU-TV, testified that the report shows an average of 88,000 homes tuned to a TV news program at 6 p. m. during a sample period between Nov. 1 and Nov. 28 last year.

He said this represents 129,000 adults.

At this point, Alcock objected to the testimony as hearsay.

DURING cross-examination on the report, Alcock questioned Dolan sharply on methods used in conducting the survey.

Dolan testified that the total figure was projected from a sample of 918 persons.

Alcock questioned Dolan as to whether he knew how many of those adults represented in the survey were eligible to serve on a criminal court jury and how many women were included.

In order for a woman to serve on a jury, she must file a special affidavit with the court making her eligible.

DOLAN SAID HE did not have this information nor did he know how the 918 persons in the sample were selected.

"I am not expert in the details this company went to in selecting this sample," said Dolan. He also conceded that the ARB report and another rating survey, the Nielsen Report, often differ.

Jack Long, general sales manager of WVUE-TV, described a marketing-type map which shows Channel 12 audience coverage. It was introduced in evidence and Long was excused.

THE COURT THEN took a five-minute recess while Garrison was called to the stand. After preliminary identification, Dymond asked the DA:

Q. "Did you make a press release today to the effect that this hearing was for the purpose of confusing the public?"

A. "Positively."

Q. "To what effect was that press release?"

A. "The press release itself is the best source of that information."

AT THAT POINT the assistant district attorney provided the defense counsel with a copy of the press release. After studying it a few moments, Dymond resumed his questioning.

Q. "To what news medium did you distribute this press release?"

A. "Routine distribution."

Q. "What is routine distribution?"

A. "Television, newspapers, radio."

Q. "And national wire services?"

A. "National wire services."

Q. "IN VIEW of the fact that you have made this release available why didn't you provide us with your releases?"

At this point the state objected to the question on the grounds that a decision already had been made on that aspect of the hearing. The judge sustained the objection and the defense filed a bill of exception.

Q. "When did you make this news release?"

A. "What do you mean make it—when I drew it up?"

Q. "When did you release it?"

A. "This morning around 11 o'clock."

Q. "At that time were you aware of the guidelines of this court?"

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ASSISTANT DEPUTY DA Alcock at this point objected to the question, saying it was not relevant to the change of venue hearing.

Dymond argued that the guidelines were "issued for a specific purpose of preventing undue publicity to protect the public from being baraged with news in this case. I don't see how you (Judge Haggerty) can rule that your guidelines are irrelevant."

Judge Haggerty replied that allegations on violations of the guidelines will be heard when and if the case is tried. Dymond said that "the idea that this witness is violating guidelines obviously shows that adverse publicity is affecting our client."

JUDGE HAGGERTY said he has no control or jurisdiction over the Warren Report and discussions of it.

Dymond told the court that his client is accused of conspiring to kill President Kennedy. He said the state first has to prove in this case that "a conspiracy existed and indoctrinating the public to the effect that a conspiracy did exist if successful has removed one element that the state would have to prove in court."

Judge Haggerty allowed the press release to be marked for identification. He said he would wait to rule on its admissibility until after "we see what is published."

DYMOND THEN asked Garrison if he were acquainted with Mark Lane, author of the book, "Rush to Judgment." Garrison said yes.

"Did you ever make a public endorsement of 'Rush to Judgment'?" Dymond asked. Garrison said, "Yes, certainly."

Dymond then showed Garrison a copy of a letter which purported to be an endorsement by Garrison of the Lane book and which appeared in a New York Times story.

He asked Garrison if this was an accurate copy. Garrison said, "Yes."

DYMOND ASKED Garrison if he had written a letter before or after the preliminary

hearing for Shaw last year.

Garrison said, "It's my impression that it was after the preliminary hearing."

Dymond attempted to offer the letter in evidence and Alcock objected, saying that if it appeared in the New York Times, it had no effect in Orleans Parish and was irrelevant.

Dymond countered, saying the New York Times has wide circulation in Orleans Parish.

JUDGE HAGGERTY ruled that he would admit the letter, but said that the objections of the state would be taken into consideration.

Attorney William Wegmann argued that one of the "crucial issues" is the defense allegation that Garrison has created such an atmosphere of fear in New Orleans that it is impossible to get back certain defense witnesses.

Haggerty replied by asking if this has any bearing on the change of venue motion.

WEGMANN SAID it made a lot of difference, saying the DA created an atmosphere of fear for witnesses. "Garrison is prosecutor here in New Orleans, not Lake Charles; these witnesses say they are afraid to return to New Orleans." Haggerty sustained an objection by Alcock.

Dymond took a bill of exceptions to the ruling.

In another aspect of the investigation, Gordon Novel is out of jail on \$500 bond after being ordered held for New Orleans authorities by a Columbus, Ohio, court.

The action came as a result of a subpoena for the former owner of a New Orleans nightclub to appear before the Orleans Parish Grand Jury.

PREVIOUSLY, Garrison had subpoenaed Novel, who

fled Louisiana steps ahead of authorities, and the DA was unsuccessful in attempts to have Novel returned to his jurisdiction.

However, a Columbus judge said the current subpoena complies with a uniform witness act honored by both states. It grants Novel immunity from any past acts he may have committed in Louisiana.

Novel is fighting the subpoena on the grounds that he will be charged with perjury if he testified before the grand jury.

Garrison contends that the Central Intelligence Agency was involved in the assassination and that Novel "by his own admission in public statements is affiliated with the CIA."