

## Journalist-Law Panel Advises Broad Protection for Newsmen

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By LESLEY OELSNER NOV 17 1971

Warning that "the nation cannot afford" to let freedom of the press erode, a panel of journalists and law officials called yesterday for broad legal shields to protect newsmen and news agencies from governmental efforts to secure their confidential information.

It recommended also that there be an absolute ban against prepublication restraint of the press by government, and that the police refrain from two "regrettably widespread" practices—masquerading as reporters and paying reporters for information.

And, it said, the so-called underground press should be accorded the same rights as the more established media—rather than the "double standard" under which, the group said, "some law-enforcement officials have used their official authority against the underground press in a way in which it would never have been invoked against the established press."

The panel was assembled last February by the Twentieth Century Fund, an independent research group, to investigate the growing conflicts between press and government.

Its members include a judge, a prosecutor and the executive director of the American Bar Association; Mike Wallace of the Columbia Broadcasting System; George E. Reedy, the former press secretary to President Lyndon B. Johnson, and Thomas K. Forcade, the Washington representative for the Underground Press Syndicate, who was recently denied press credentials to the White House.

It was Mr. Forcade's type of news media that the panel described as "underground"—a category, it said, that included about 300 or 350 newspapers, and 200 or so less regularly appearing publications, all of which "share a style that is irreverent, tolerant of some drugs, explicit about sex, oriented toward the political left and consistently anti-Establishment."

The press has made itself "vulnerable," the group stated, "by years of irresponsible scrambling for reader and viewer attention." Often, it said, the press has lacked "basic understanding," accepted "handout" information and had a "misdirected passion" for headlines and scoops.

But it blamed the Government as well.

"Unfortunately," the task force report says, "Vice President Spiro T. Agnew's criticisms, which created so much

perturbation among the media and so much approbation among the sections of the public, has not helped matters. On the contrary, his attacks increased the acrimony and suspicion."

### Government 'Plot' Denied

At a news conference yesterday, members of the panel insisted—in response to reporter questions—that the group had not been assembled to "take on" the Nixon Administration. Nor, they said, was there any "plot" by the Administration to muzzle the press.

Numerous factors have contributed to the rise in "tensions" between press and government, they said—the discontent over the Vietnam war, for instance, and the increasing divisiveness of society in general. And, said Mr. Reedy, the adversary stance between press and government is "traditional" and "probably a healthy thing."

In its report, however, the panel noted that lately there were "new and potentially corrosive frictions" between press and government.

Giving recent examples of each, the report cited five areas that posed "some degree of damage to press freedom": the increasing use of subpoenas against journalists, policemen posing as newsmen; "official harassment" of underground journalists; governmental investigation in the regulated broadcast media; and, as in the case of the Pentagon Papers attempted prior restraint of publications.

The report described, for example, the attempt of a House subcommittee to subpoena untelevised material from the C.B.S. documentary, "The Selling of the Pentagon" and the subcommittee's unsuccessful attempt to have the whole House cite the president of C.B.S. for contempt for refusing to obey the subpoena.

### Subpoena Curbs Advised

The panel urged that the subpoena not be used for such purposes. Beyond that, though, it recommended that a group of experts be formed to "reconcile the competing values" of journalism and governmental regulation of radio and television.

The group devoted much of its report to the problem of subpoenas. The United States Supreme Court is expected to decide this term whether the First Amendment provides newsmen with a shield against subpoenas; the panel therefore did not discuss that issue.

It said, however, that what-

ever the Court decided, there was still likely to be a need for laws to allow reporters to refuse subpoenas seeking names of their confidential news sources or information that those sources have provided.

The shield, or "newsman's privilege," suggested by the panel would protect both the names of the sources and any tape recordings, notes or photographs containing confidential information. Eighteen states have some type of law protecting newsmen, but, the report said, the laws are not broad enough.

Further, the panel's proposal would also allow newsmen to refuse even to enter grand jury rooms, if they could show that by doing so they would damage access to their sources. An exception would be allowed if the government official seeking their testimony could demonstrate a "compelling need" for it.

Other members of the panel are:

Robert Williamson, chairman, former Chief Justice of Maine.

Jack Bass, The Charlotte Observer

Ralph de Toledano, columnist.

Bert H. Early, executive director of the American Bar Association

Norman Isaacs, editor-in-residence Columbia University.

L. F. Palmer Jr., columnist.

Roger Rook, District Attorney of Clackamas County, Oregon.

Howard B. Woods, editor and publisher, St. Louis Sentinel.

Shirley Hufstедler, judge of the United States Court of Appeals for the Ninth Circuit, was on the panel, but resigned this summer because of a possible conflict of interest.

Fred P. Graham, Supreme Court correspondent for The New York Times, was reporter for the panel. He took no part, however, in the report's section on the Pentagon Papers.