

SFChronicle

The Media's Doubtful

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Washington

A couple of weeks ago, in commenting on the President's last formal speech on Watergate, the Washington Post editorially criticized "the curiously detached status — almost that of bemused spectator — which Mr. Nixon assumed for himself."

It was "this studied sense of remoteness," the editorial said, that stripped all conviction from his statements deploring the transgressions committed by those in his employ.

Somehow, that editorial came to mind this week when looking at the way leading newspapers handled Vice President Spiro Agnew's complaint that there was an effort "to indict me in the press" through calculated Justice Department leaks of kickback allegations, now being investigated by a federal prosecutor and grand jury in Baltimore.

Analysis
and
Opinion

RIGHTS

Talk about curious detachment and a studied sense of remoteness: My favorite editorialists acted as if they had no kinship to the newspapers where these leaks had appeared.

My own beloved Post, which on August 15 reported that "informed sources" said several Maryland contractors had told the prosecutors of personal cash payments to Agnew, editorialized rather grandly that "... the vice president is well within his rights to be powerfully annoyed..."

Our friends across town at the Washington Star-News, which on August 13 cited "reliable sources" as the basis for a similar story, now said editorially: "The vice president is entirely correct in insisting that the Justice

Department . . . find and stop the many sources of leaked information..."

And the mighty New York Times, which on August 16 named "sources close to the investigation" as buttressing its version of the payoff allegations, editorialized: "Vice President Agnew has every right to complain that his constitutional rights are being violated by leaks attributed to 'Justice Department sources'..."

VIRTUE

There hasn't been such a suspiciously conspicuous display of civic virtue since a San Francisco madam led her string of girls to the Red Cross blood bank during World War II.

All three papers washed their hands of responsibility for publishing the "leaks" by quoting Mr. Agnew's own statement that "the blame must rest with those who give this information to the press."

But that rationalization works only if those of us in journalism are going to set a lower standard for ourselves than the law applies to pawnshop owners when it orders them not to "fence" stolen goods.

There are many reasons why the press ought to be wary of "fencing" leaked information from criminal investigations. For one thing, the great lesson we were supposed to have learned from the McCarthy era was that responsible journalism requires that accusations against individuals not be delivered naked to the reader but be presented with due regard to the motives and credibility of the accuser.

The "sources close to the investigation" evasion makes this impossible. If the sources are, as Agnew suspects, on the government side, one has to wonder why a prosecutor with a genuinely strong case would risk it by premature publicity that could easily get him thrown out of court.

STAKE

If, on the other hand, as

the No. 2 man in the Justice Department says, the sources are "close to the investigation" because they are the very contractors who are under investigation, or their lawyers, then the reader should be told the mudballs hitting Agnew are coming from that direction.

Those who "fence" leaked information forget that we as journalists have just as much stake in the probity of the criminal justice system as any other citizens. A while back, several hundred American newspapers published Jack Anderson's columns containing verbatim excerpts of Watergate grand jury testimony. The rationalization one heard from editors was that "somebody's going to publish it, whether I do or not."

Not a single editor I know argued that the grand jury system could survive repeated disclosure of confidential testimony. Not a single editor contended that the rights of accused persons can be protected if accusations made in that non-adversary forum are publicized. Nonetheless, the leaked testimony was published — and to hell with the consequences.

Now Time magazine, with its vast circulation, has told its readers that unnamed "Justice Department officials" believe Agnew's indictment is "inevitable," despite the fact that the prosecutor says not one scintilla of evidence has yet been given to the grand jury, which alone can determine that question. What does that imply about our system of justice? It implies that some journals, at least, think it is a farce and a fraud.

ERROR

By trafficking in such leaked information, the press has made a third error. It has begun to accept and to propagate the thoroughly un-American notion that some people — namely, prominent politicians — are guilty until proven innocent.

If that seems exaggerated,

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Role

just consider what the reaction would have been if Time had announced that Justice Department officials had decided, in advance of any grand jury, that Agnew's indictment must be considered "impossible."

Instead of Agnew being the lone complainant, as he is today, the air would be filled with cries of indignation. Why? Because much of the press and public has come to believe, first, that a prejudgment of guilt is proper for a politician and, second, that a prejudgment of innocence must be taken as evidence of a political fix.

In this climate, what we need from our leading newspapers is not an attitude of lofty detachment, but the reassertion of some fundamental truths.

One truth is that Spiro Agnew is innocent. He is innocent (and not just presumed innocent) because he shares with you and me the blessing of citizenship in a country which, thank God, decided 200 years ago that the burden of proving any one of us guilty falls entirely on the state, through a deliberately laborious process of indictment, prosecution and conviction at public trial in a court of law.

And that is a process in which the press interferes, not only at its own peril, but at hazard to the most important of everyone's fundamental rights.