

MEDIA EXECUTIVES STUDY SUBPOENAS

Concerned Over Requests for Data From Reporters

By LAWRENCE VAN GELDER

Executives of major news-gathering organizations expressed criticism and concern here yesterday in response to recent Government subpoenas of reporters' notes, tape recordings, news film and unedited files of news media.

The statements were made by The New York Times, the Columbia Broadcasting System, Time Inc. and Newsweek.

They came only a day after the most recent Government action, a subpoena directing Earl Caldwell, a correspondent for The Times in the newspaper's San Francisco bureau, to appear before a Federal grand jury investigating the Black Panther party.

Arthur Ochs Sulzberger, president and publisher of The Times, said:

"All citizens, including newspapermen, have a duty to respect proper judicial processes, but The Times intends to use all its resources to make sure that no judicial action violates the constitutional guarantees of a free press and the rights of newspapermen to carry on their work freely and without coercion.

"Toward this end, Harding F. Bancroft, executive vice president of The New York Times,

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is in San Francisco at my request to give every possible assistance to Mr. Caldwell and to the attorneys we have engaged for him."

"The Times is concerned with what action might be taken in regard to Mr. Caldwell, and also the possibility that the increasing use of the subpoena to elicit information from newspapermen might hinder them in their pursuit of the news. It could well set up a barrier between reporters and their sources of information. The use of the subpoena power must be balanced against the right of the press to operate freely and the right of Americans to a free and unhampered flow of information."

In San Francisco last night, sources said that the Federal grand jury before which Mr. Caldwell was directed to appear today would not meet. The sources said the next grand jury meeting scheduled was Feb. 11.

The United States Attorney's office is caught up in a change of administration from that of Cecil Poole, the Democratic appointee who ended nine years of service on Monday, and James Browning, the new Republican appointee.

Other Statements Issued

Other statements were issued yesterday by Frank Stanton, president of the Columbia Broadcasting System, and by Hedley Donovan, editor in chief of Time Inc.

At The Wall Street Journal, a group of reporters signed a petition asking "for the assurance of our editors that this newspaper will not allow itself to be put into the role of government investigator or lend unintentional support to political organization as these other news organizations have done."

The reference to other news organizations concerned C.B.S., Time, Life and Newsweek.

C.B.S. has received Government subpoenas demanding a complete record of correspondence, memorandums, notes and telephone calls and for news film in connection with a program on the Black Panther party.

Federal courts have subpoenaed the unedited files and unused pictures of Time, Life and Newsweek magazines dealing with the Weatherman faction of the Students for a Democratic Society. The group is composed of militant revolutionaries.

C.B.S. announced last week that it would comply with the Government's demands, but in his statement yesterday, Mr. Stanton observed:

"The question of the extent to which news gathering organizations and reporters can be required in certain criminal proceedings to provide material gathered in the course of news functions but not published or broadcast is an immensely important one.

"Broad unrestricted access to reporters' notes, notebooks and other materials not published or broadcast can have a direct and seriously adverse effect on the free flow of information, and access to news sources.

"It is, therefore, the intention of C.B.S. to contest demands of this nature as soon as appropriate cases are presented. We have instructed our attorneys to proceed accordingly."

The subpoenas were issued to C.B.S. and to Mr. Caldwell in connection with a charge by the Government that David Hilliard, a Black Panther, had made a threat against the life of President Nixon during a speech on Nov. 15.

Subpoena Deplored

Mr. Donovan, in his statement, deplored the increase in the number of subpoenas being issued to the press and said that such action "appears to make the press an arm of law-enforcement agencies, which is not its role."

"In some cases, indeed, we believe that law enforcement agencies have found it convenient to force the press to supply them with information that they should have obtained themselves," he said.

Mr. Donovan added:

"We clearly understand that

our obligation to cooperate with judicial procedure is the same as that of any other organization or citizen.

"It is our opinion, however, that the press has served the public interest on many occasions by publishing material that could not have been obtained without interviews conducted on a confidential basis between the reporter and his subject. The threat of frequent and indiscriminate subpoenas endangers that confidential relationship and could seriously undermine the ability of the press to search out and report the news.

Legal Action Considered

"It will be this company's policy," Mr. Donovan stated, "to analyze each subpoena carefully and weigh its relevance to trial proceedings or criminal actions. Should we believe that there is no immediate relevance and that a law enforcement body is on a 'fishing expedition' for information, we will take appropriate legal action to contest the subpoena."

Osborn Elliott, editor in chief of Newsweek, issued a statement on subpoenas last night, and Sterling Soderlind, the managing editor of The Wall Street Journal, said he planned to issue such a statement shortly.

In his statement, Mr. Elliott characterized the "indiscriminate use of subpoenas," either by the Government or by defense attorneys as a threat to the role of the press in a free society.

Mr. Elliott said, in part: "Under pressure of subpoena we may be legally compelled to submit our files, but we believe that all confidential sources must and will be protected. We have been subpoenaed at various times by both the Government and the defense, and our position has been consistent.

"We have not revealed the identity of confidential sources to anyone, and we intend to resist by all the means at our disposal any unwarranted uses of the subpoena power."

At The Wall Street Journal, 23 of 33 general reporters signed the petition, which said:

"The subpoenas are a dangerous device which could be used to make us betray virtually any source in the future. We urge the entire profession to join us in defending press freedom against this destructive practice."

Another statement of protest to the subpoena served upon Mr. Caldwell was issued by Ernest Dunbar, senior editor of Look magazine and chairman of the New York Chapter of Black Perspective, an organization of black professional journalists.

Mr. Dunbar said, "We feel this action not only violates the reporter's confidentiality but equally transforms him involuntarily into a Government agent. Such an action is especially onerous in the case of a black reporter whose credibility, reputation and ability to function in the black community would be destroyed by such forced testimony."

Position Disputed

Special to The New York Times

WASHINGTON, Feb. 3—A Justice Department official's contention that it was policy to subpoena newsmen was disputed by three former high officials of the department today.

The official said yesterday that the department had for years obtained information from newsmen, either voluntarily or through subpoenas.

Asked today for examples, he said the indictment of several Chicago policemen in connection with riots at the 1968 Democratic National Convention was such a case. However, he could not cite other examples, particularly in the South where the department reported most of the information was obtained.

The three former officials, who worked under the previous Administration, said they could recall no case in which the department subpoenaed notes and tape recording of newsmen.

The three were Herbert J. Miller Jr., Assistant Attorney General in the Criminal Division; John W. Douglas, Assistant Attorney General in the Civil Division, and Harold F. Reis, executive assistant to the Attorney General.