

Subpoenas on the Press

If the press is to fulfill the independent role guaranteed to it by the First Amendment, the line of separation between it and the Government must be kept unmistakable. That line is jeopardized by the subpoenas various news magazines, television networks and newspapers, including The New York Times, have recently received from Federal authorities for notes, files, film and other material.

Much of the data on which the press relies in discharge of its function of informing the public comes from confidential sources. It is the responsibility of the press to check out this information, discarding that which proves unfounded or immaterial and utilizing what seems relevant to public understanding and knowledge.

Demands by police officials, grand juries or other authorities for blanket access to press files will inevitably dry up essential avenues of information. People whose jobs, associations or reputations are at stake cannot be expected to speak freely on an off-the-record basis if they have reason to fear that both their identity and the totality of their remarks will be turned over to the police.

The attendant and even more serious danger is that the entire process will create the impression that the press operates as an investigative agency for government rather than as an independent force dedicated to the unfettered flow of information to the public. That danger is not eliminated even when subpoenas—such as the one served on a reporter for The Times—are limited to demands for notes or tapes “reflecting statements made for publication.”

The lesson of history is that each encroachment on freedom of the press is an opening wedge for further erosion of that freedom. The breadth of the information sought by the Government in the constantly expanding list of subpoenas for unpublished data on the Black Panther party and the Weatherman faction of Students for a Democratic Society is an ominous indication of the speed with which that erosion can take place.

This newspaper and all the mass media have the same duties as other organizations or individuals to cooperate in the processes of justice. But neither justice nor democracy will benefit if the subpoena power is misused to abridge the independence and effectiveness of the press.