

## WBAI IS ORDERED TO GIVE UP TAPES

FEB 26 1972

Recordings of Tombs Riots  
Sought by Prosecutor

NYTimes

Radio station WBAI was ordered yesterday to turn over to police authorities tape recordings it had made in the Manhattan House of Detention for Men during a prisoner uprising there in October, 1970, or face contempt of court.

The order was issued yesterday by Justice Gerald P. Culkin in State Supreme Court at the behest of John Fine, an assistant district attorney.

Paul Fischer, news director for the listener-sponsored FM station, said the tapes would not be turned over to the District Attorney's office.

### Sells Some Tapes

The station has a policy of selling tapes of its programs to interested listeners, who want to own them. Mr. Fine said the station at first agreed to sell the tapes in question to the District Attorney's office, but then changed its mind, citing the right of freedom of the press.

Mr. Fischer said the station was reviewing its policy of

selling tapes of its programs to listeners.

Eight prisoners in the House of Detention, known as the Tombs, are facing trial on charges including kidnapping, illegal possession of arms and rioting growing out of the 1970 uprising.

Mr. Fine contended that the tapes, which he said had already been broadcast by WBAI, would show that the defendants made statements about killing people and about cutting their throats.

### Directed to Show Cause

Justice Culin then directed the station to show cause Monday why they should not turn over the tapes or be held in contempt.

The 1970 Tombs rioting is the subject of a similar trial involving the limits of freedom of the press. Recently The Village Voice was ordered by Supreme Court Justice Harold Birns to turn over to authorities the original manuscript of an article purportedly written by an inmate who was indicted for his alleged part in the rioting.

That case was one of the first judicial tests of the state's "newsman's privilege" statute, which holds that no professional journalist may be held in contempt for refusing to disclose "any news or the source of any such news coming into his possession in the course of gathering news" for publication or broadcast.