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Indictments and

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Time for the Press To Show Restraint

When the Watergate cover-up was in full swing, it was noble and courageous for journalists to try to expose the facts, undeterred by the petty niceties of judicial procedure. But that time is over.

Judicial procedures are working with a vengeance to bring out the truth. So those of us in the press need to be wary about breaching traditional restraints—far more wary, I believe, than many have been in reporting over the past few days on the supposedly secret work of the Watergate grand jury.

The best evidence of how the judicial processes are working comes from the indictments handed down last week against seven former Nixon aides in the case of the Watergate cover-up. The terms of the indictment were severe. They show, not a lack of zeal on the part of the prosecutor, but a disposition to be extremely tough with balky witnesses.

John Ehrlichman, the former chief domestic aide to Mr. Nixon, is a case very much in point. According to his attorneys, he refused an offer by the prosecution whereby he would provide evidence in return for leniency.

Last week he was indicted on four different counts which could land him in prison for as much as 20 years. Among the charges against Ehrlichman are obstruction of justice, lying to the FBI and perjury in testimony to the grand jury. Here are five of the responses to the grand jury which brought the perjury indictment:

"I can't say specifically one way or another."

"I have no present recollection of that having happened."

"I'm sorry but I just don't remember."

"I'm sorry but I just don't know."

"I'm sorry. I just don't remember. It probably was, but I just don't recall."

That such obviously vague and weasely answers would elicit perjury charges provides an unfailing measure that the fix is out. There is no pulling of punches. The full force of the law is now being mobilized against the guilty parties.

In these conditions, the traditional inhibitions on reporting acquire again their normal force. Few if any of these limitations are as well established as the tradition that grand jury proceedings are secret. But that restraint was violated by several publications over last weekend in stories purporting to report secret material given by the Watergate grand jury to Judge John Sirica.

The trouble which can flow from these violations is obvious. In a populist democracy such as ours, respect for judicial process, and particularly those aspects of its protecting the rights of individuals, is a fragile thing at best. Journalists, who enjoy special protection under the First Amendment, have a special responsibility to respect due process. We can hardly expect other Americans to take fair play

TUESDAY, MARCH 5, 1974

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seriously when we ourselves show scant respect for the rights of others.

Then, there are the Watergate cases presently being tried. Defendants and their attorneys have made it abundantly plain they are prepared to use pre-trial publicity and every possible procedural issue to try to discredit the prosecution. Judges are, not without reason, edgy. It is at least possible that over-aggressive reporting could blow some of the cases, and even the whole impeachment proceeding.

If nothing else, more irresponsible reporting could make of the Special Watergate prosecution a hapless wreck. Like the Senate Watergate committee which lost so much prestige because of leaks, the prosecution could become, in the public eye, a bunch of nice guys who finish last deservedly.

Finally, there is at stake the quality of journalism with its not negligible impact on the tone of American life. Marked progress has been made, it seems to me, in extending the reach and seriousness of news coverage in recent years. The exposure of the Watergate cover-up was, itself, a press triumph—notably for this newspaper.

To lose those gains at just this time would be a terrible pity. But they will be lost unless we show more self-discipline—unless there is a curbing in the spirit of rivalrous competition and self-important narcissism now so rampant in the fourth estate.