Newspaper Clippings About Free Press Report, Prejudicial Publicity, and Responsible Reporting

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New York, January 4—Declaring that “both public order and protection of the accused are served by the ‘bright light of truth,’” the American Newspaper Publishers’ Association today released results of a two-year intensive study of press coverage of judicial proceedings in the United States.

“Neither the Press nor the Bar has the right to bargain about the public’s inherent right to know,” the publishers stated in their report, which was prepared by a committee of top newspaper publishers and editors on the issues of “Fair Trial and Free Press.”

In summation, the Association’s representatives stated that the Press could not recommend any covenants restricting accurate reporting of criminal matters.

The committee, did suggest, however, that the Press stand ready to discuss problems of crime reporting with any appropriate individual or group concerned with the issues of Fair Trial and Free Press.

The people’s right to a Free Press, which inherently embodies the right of the people to know, is one of our most fundamental rights and neither the Press nor the Bar has the right to sit down and bargain it away.”

There is no real conflict between the First Amendment guaranteeing a Free Press and the Sixth Amendment guaranteeing a speedy and public trial by an impartial jury, the report said.

“There should be no assumption that an objective juror must be an ignorant juror and it is not only a fault but a dangerous assumption that an over-riding prejudice comes from printed truth.”

The ANPA report coincides with moves by the American Bar Association and the State Bar of California (see columns 5 and 6 of this week’s Recorder) to tighten the Canons of Legal Ethics to limit sharply the release of information by attorneys in pending criminal cases.

The ANPA report said action by members of the Bar was a matter for them to decide, but commented “the presumption by some members of the Bar that pre-trial news is intrinsically prejudicial is based on conjecture and not on fact.”

“For while newspapers may be denied access to information of public concern, the word of crime will circulate.

“If there is no reliable source of information such as the authentic news story, rumor and exaggeration can unduly excite and arouse the public.”

“Without a calm appraisal of the truth, the public might well reject in fear and terror as it has occasion in the past, with a breakdown of law and order as the result.”

The committee headed by D. Pennant Bryan, publisher of the Richmond, Va., Times-Dispatch and News Leader, was charged with conducting the study following criticism in the Warren Commission report of the news coverage by the Press of the assassination of President Kennedy.

“Rather than showing irresponsibility,” the report said, “the Kennedy Assassination story was in fact a performance by the Press to be commended and one which, by carrying out its responsibility to the people to tell them what had happened and how the country was meeting the crisis, steadied a reeling Nation and a shocked and startled World.”

The study covered a 10-year period from 1955. It showed that American Newspapers devoted only three per cent of their space to crime news. In the same period, the crime rate rose 73 per cent.

“Thus, rather than curtailing of crime news and reporting, it would indeed seem that more such reporting is needed in a day when crime is increasing by alarming proportions.”

The 156-page book said the committee recognized the practicality at times of certain procedural restrictions regarding newsmen’s activities within a courtroom and that limitations of space in the coverage of major news events or criminal trials of unusual public interest might make necessary such solutions as pooling of reporters and photographers.

It dealt with the Dr. Samuel Sheppard case where the murder conviction was reversed by the Supreme Court of the United States because of the trial judge’s failure to protect the defendant sufficiently from massive and prejudicial publicity attending his prosecution.

The ANPA reported the key to this problem of a fair trial lies in the hands of the judiciary not in control of the trials and courtrooms under appropriate constitutional safeguards.

The report rejected recommendations that the Press adopt codes of conduct because, from a practical standpoint any such codes would be without value because there is no way to enforce them.

"The responsibility lies with each individual newspaper," it said.

Other salient points of the American Newspaper Publishers’ report are:

—To fulfill its function, a Free Press requires not only freedom to print without prior restraint but also free and uninhibited access to information that should be public.

—There are grave inherent dangers to the public in the restriction or censorship at the source of news, among them secret arrest and ultimately secret trials.

—The Press is a positive influence in assuring Fair Trial.

—The Press has a responsibility to allay public fears and dispel rumors by the disclosure of fact.

—No rare and isolated case should serve as cause for censorship and violation of Constitutional Guarantees.

—Rules of court and other orders which restrict the release of information by law enforcement officers are an unwarranted invasion of the executive branch of government.

—There can be no codes or covenants which compromise the principles of The Constitution.

—The people’s right to a Free Press, which inherently embodies the right of the people to know, is one of our most fundamental rights, and neither the Press nor the Bar has the right to sit down and bargain it away.
Bar Chairmen Reaction To Report

American Bar Association

Boston, January 4—Prejudicial publicity still infects "too many criminal trials," Associate Justice Paul C. Reardon of the Massachusetts Supreme Court and chairman and spokesman of the 10-member American Bar Association's committee on Fair Trial and Free Press said yesterday.

Commenting on the American Newspaper Publishers' Association report, Justice Reardon said his committee welcomed the study:

"We have found no necessary incompatibility between the First and Sixth Amendments.

"We, too, are against secret arrest and secret trials and darkness where there should be light.

"Our labors have convinced us, however, that there has been and is now on the American scene a problem of prejudicial publicity infecting altogether too many criminal trials.

"If we diverge from the views of the publishers it is mainly on that score. The resolution of that problem is still before us.

"In the meantime, all comment and criticism on our tentative draft of standards which comes our way will be weighed and analyzed prior to the promulgation of our final recommendations."

Justice Reardon said he looked forward to working on these in company with the publishers.

"I am hopeful that a mutually satisfactory answer will be found and that we may get on together to other important questions in the administration of Criminal Justice."

New York City Bar

Immediately following release of the Publishers' Association report United States Circuit Court Judge Harold Medina, chairman of a special committee of the New York City Bar Association, issued a statement in which he charged the publishers with a "we won't give an inch" position.

The publishers largely ignore their own mistakes, he said, making "no admission that coverage can be pretty offensive."

Judge Medina said his committee agrees with much of the report issued by the American Newspaper Publishers but perhaps "are not recognizing that we are fighting the same battle."

"I am not surprised to see the ANPA take a strong position on the First Amendment," Medina said, "My committee also takes a strong position on the same subject.

"I think it is a mistake, however, to characterize efforts to bring the Bar and the Press together on such subjects as confessions, prior criminal records and similar matters as attempts to 'bargain away' First Amendment rights.

"Perhaps each profession must follow its own path, but I am for cooperation, even if it has to be on an individual newspaper basis."

"We (the Medina committee) call for judicial housekeeping where you try for a dignified silence, instead of striking at outsiders—the Press—or ordering police not to communicate."

Strengthening Bar Canons of Ethics to restrain attorneys from making prejudicial public statements will also be proposed by Medina's committee, he said.
The civil disorder involving racial strife was a great American tragedy of 1966. It erupted violently in Chicago, in Cleveland, in Mississippi. Disorder flared dramatically in San Francisco. It pulsed in Oakland. It had exploded wildly in Watts during the hot midsummer of 1965.

The California riots received television and radio coverage that was both praiseworthy and deplorable.

San Francisco Bay Area television and radio newsmen are unanimous, at least for the time being, in their intentions to do everything possible to avoid future charges of deplorable conduct should civil disorders again hit this area.

THE ATTITUDE is perhaps best expressed in this communique to the KSFO Radio news staff from their news and public affairs director, Chief Casselman:

"A civil disorder story, particularly one involving racial strife, is different from any other kind of story in that broadcast coverage of it may materially affect its development, intensity, duration and outcome. Thus, this kind of story demands exceptional, special treatment.

Because we are such an extremely personal medium, our responsibility to the community in covering civil disorders is enormous which leads me to underscore the importance of this meeting.

The guidelines are expected to be derived primarily from a list of 14 directives Casselman prepared for his KSFO staff, from a list of 15 submitted by Dr. Kennen Harwood, USC Telecommunications Department, and from six that McLean suggested for KGO-TV.

McLean's suggestions are concerned more with private protection than public welfare. Like so: (1) Use unmarked vehicles, preferably 4-door, equipped with 2-way radios or mobile phones; station wagons resemble news cars too much, even when unmarked. (2) News personnel in the field should be equipped with hard hats and possibly catcher's masks for reporters, soundmen, assistants. (3) Four men should be assigned to each vehicle.

ON SECOND THOUGHT, these could almost be described as counter warfare measures. Leave us move on to the Casselman and Harwood recommendations. Here are some representative guidelines:

1. Dispatch newsmen to authority command post, NOT to the scene. (2) Report only authoritative information, emphasizing steps being taken to restore order. Use the term "riot" only after authorities do. (3) Be extremely cautious not to overemphasize scope of disorder through reports of scattered, isolated, sporadic outbursts. (4) Avoid assuming a shooting or fire near an area of unrest is related to the disorder until authorities say it is. (5) Broadcasts should be calm, clear, undramat- ic and totally devoid of "show," "color," "clever" excitement.

6. Public reports should not state exact location until authorities have sufficient personnel on hand to maintain control. (7) Immediate or direct reporting should minimize interpretation, eliminate airing of rumors, and avoid using unverified statements. (8) Avoid the reporting of trivial incidents. (9) Because inexpert use of cameras, bright lights, or microphones may stir exhibitionism of some people, great care should be exercised. (10) Cruising in an area of potential crisis may invite trouble.

11. Avoid reporting interviews with obvious "inciters." (12) Tapes containing sounds of fighting, shooting, screaming, raging violence, or interviews with law breakers, are NOT to be used while the disorder is in progress.

It is hoped that the final recommendations will encourage responsible reporting by all stations.