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**Grand Jury
May Quiz
Sen. Gravel**

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The Justice Department has warned that it may subpoena Sen. Mike Gravel (D-Alaska) to testify before a federal grand jury in Boston investigating the publication in June of secret Pentagon papers on Vietnam.

Gravel's midnight session of a Senate public works subcommittee June 29, when he read portions of the Pentagon study into the public record, was "unauthorized and untimely," the government charged in a legal memorandum filed in U.S. District Court for Massachusetts Tuesday.

As a result, the memorandum said, Gravel could not invoke legislative immunity should he be called to testify before the grand jury.

"Not being engaged in official subcommittee business" when he read aloud from the Pentagon papers, the Justice Department added, "his actions cannot be above scrutiny by those charged to enforce the criminal statutes."

The memorandum, prepared in the Justice Department's Internal Security Division, stops short of suggesting that Gravel might be the subject of criminal prosecution in the Boston investigation.

But it does not rule out prosecution of Dr. Leonard Rodberg, whom Gravel says he hired as a subcommittee staff member on the night he read the Pentagon study into the record.

Rodberg has been subpoenaed to appear before the grand jury, but has asked U.S. District Judge Arthur Garrity in Boston to quash the subpoena.

See GRAVEL, A6, Col. 1

GRAVEL, From A1

His request was made on the grounds that it interferes with his First Amendment rights.

Gravel intervened in that case last week, claiming along with Rodberg that the subcommittee session was part of legislative business and that his staff member's official actions are therefore as immune from judicial inquiry as his own.

Judge Garrity will hold a hearing in Boston at 10 a.m. Friday on Gravel's and Rodberg's motions to quash the subpoena.

Discussing the Boston proceedings publicly for the first time, the Justice Department also said in its Boston memorandum that "the government is engaged in a crucial step of enforcing the criminal law."

The memorandum stresses that "the government neither affirms nor denies that this proceeding is brought to investigate the disclosure of the so-called 'Pentagon Papers.'"

But it adds that the investigation "has been initiated as a vital and unavoidable step in the investigation of possible violations of criminal statutes."

The Justice Department goes on to point out that the Supreme Court, in affirming the right of The Washington Post and The New York Times to print articles based on the secret Pentagon study on June 30, did not rule on the question of criminal prosecution concerning disclosure of the study.

The department cites Justice Byron R. White's concurring opinion that "failure by the government to justify prior restraints does not measure its constitutional entitlement to a conviction for criminal prosecution."

Dr. Daniel Ellsberg, a senior research associate at the Massachusetts Institute of Technology's Center for International Studies, has already been indicted in Los Angeles on charges that he illegally obtained and duplicated the 47-volume Pentagon study, entitled "History of U.S. Decision-Making Process on Vietnam Policy."

Ellsberg has said publicly that he provided the Pentagon papers to The New York Times and other newspapers.

Under the direction of attor-

ney Paul C. Vincent of the Internal Security Division, the Boston grand jury began investigating disclosure of the Pentagon papers in mid-July.

After newspapers learned of the investigation, the Justice Department switched it to a new grand jury and, among other items, subpoenaed Ellsberg's bank records.

An FBI inquiry into the

matter also extended to photocopying shops in the university community of Cambridge, Mass., as well as to colleagues of Ellsberg.

A spokesman for Gravel, discussing the Boston grand jury, said yesterday that the senator met Rodberg "for the first time in his life" on the night of the surprise subcommittee meeting, and promptly hired him to edit the official recording of the hearing.

Rodberg, a former University of Maryland physicist, who is now a fellow at the Institute for Policy Studies here, later negotiated publication of Gravel's copy of the Pentagon papers by the Beacon Press in Boston.

Beacon officials, who claim the Gravel publication will contain 95 per cent of the original Pentagon study, have said that it will appear in four volumes next month.

Gravel wrote to every member of the Senate Tuesday, seeking their support in an issue he claimed involves "the independence of the Senate and our entire system of constitutional government."

"If the executive branch may with the cooperation of federal courts order our staff assistants to testify before federal grand juries about our sources of information," Gravel said in the letter, "we would obviously be open to harassment and subject to new constraints should we venture into any area of major controversy."

The Alaska senator has declined to say how he obtained his copy of the Pentagon papers.