

Line-Up Summonses Restricted

Court Assails Misuse of Subpoenas

218.75
By Linda Newton Jones
Washington Post Staff Writer

Chief D.C. Superior Court Judge Harold H. Greene issued an opinion yesterday which reprimanded government attorneys for issuing grand jury subpoenas and directives disguised as court orders and ordered the attorneys to file written affidavits with the court whenever a grand jury action is challenged by the defense.

"The grand jury may in appropriate circumstances request or direct the attendance of witnesses at a line-up; the United States Attorney may ask an individual that he so appear," Greene said in the opinion. "But only a court has the authority to issue a legal

and valid order enforceable as such to compel the attendance of a witness or a defendant."

Greene, concerned about the apparent "prosecutorial domination" of grand jury panels and the court's obligation to supervise the grand jury process, ordered the government to file affidavits with the court to substantiate the relevance of a grand jury action to its investigation, the panel's authority to seek such information and statements showing the information is not being sought "primarily for another purpose."

Greene said the apparent purpose of the grand jury today is to "affix its stamp of legitimacy" to government decisions to prosecute a case or

drop it and to aid the government in gathering evidence of a crime rather than fulfilling its constitutional purpose of providing a citizen check of the government's prosecutorial powers.

If this is the grand jury's most significant purpose today, Greene said, "then it might well be more simple and direct to vest these powers directly in the prosecution."

Greene's opinion denied a grand jury request for a court order requiring the appearance of an armed robbery defendant in a D.C. police line-up. The defendant, Riley S. Walls, had appeared for line-ups six times and all but one of these line-ups was canceled.

Walls, questioning the authority of the order, refused to appear in one of the line-ups.

Greene said prior to the defendant's refusal to appear in a line-up on Feb. 20, the prosecution issued a document headed "superior Court of the District of Columbia," entitled "Order" and signed by the grand jury foreman and an assistant U.S. attorney.

Greene said the effects of the prosecution's "pattern of deception" has been "to lead witnesses to believe that they are under such orders (with penalties for noncompliance) when, in fact, they were subject to nothing more than requests." The Court has ordered the prosecution to cease these practices.