

U.S. SEEKS TO CURB PRESS 'PRIVILEGE'

Asks High Court to Require
Disclosures by Newsmen

9-14-71

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Special to The New York Times

WASHINGTON, Sept. 13—

The Justice Department asked the Supreme Court today to rule that journalists do not have a constitutional right to refuse to testify about the identity of confidential sources or other information learned in confidence.

Solicitor General Erwin N. Griswold asserted in a friend-of-court brief that if such a "newsman's privilege" was needed to preserve the flow of sensitive information to the press, Congress and not the Supreme Court should create it.

Mr. Griswold's primary argument was that newsmen have obtained confidential information for almost two centuries in this country without a constitutional rule that would shield them from having to disclose their sources' identities if the reporters were subpoenaed to testify. Nevertheless, he said, "The flow of confidential information to the media has increased significantly over the years."

Protecting Sources

With the increase in recent

years of prosecutions resulting from activities of political radicals and members of the "drug culture," a number of reporters who have sources of information among groups have been subpoenaed and have contended that they had a right to keep silent under the First Amendment. The brief filed today was in connection with the appeals of two of these reporters, who have been ordered to testify and have been granted a hearing by the Supreme Court.

One is Paul M. Branzburg of The Louisville Courier-Journal, who published interviews with marijuana and hashish peddlers and then refused to tell grand juries the names of the peddlers. The other is Paul Pappas, a television newsmen in New Bedford, Mass., who refused to disclose information about the Black Panther party that had been given him in confidence.

These cases will be argued later this fall, together with the case of Earl Caldwell, a reporter for The New York Times. He refused to enter a grand jury room to be questioned about the Black Panthers, contending that the Panthers would not give him information thereafter.

The Justice Department had argued earlier in court papers that Mr. Caldwell should be required to enter the grand jury room. In today's brief, Mr. Griswold took the further position that the First Amendment also does not shield subpoenaed reporters from having to disclose their sources' names and other information.

"The reporters are claiming, not merely the right to gather news, but the right to withhold news on the basis of promises that they, in their sole discretion, make to their informants," Mr. Griswold said.

— Jane Eide