

## PERIL SEEN IN RULING ON PRESS SUBPOENA

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WASHINGTON, Dec. 16—The Justice Department told the Supreme Court today that the power of grand juries to investigate crimes could be endangered by a landmark lower court ruling in favor of Earl Caldwell, a reporter for The New York Times.

But the Government did not contest a portion of the ruling that sharply limited the questions that could be asked of a newsman inside the grand jury room.

The Justice Department's position on the question of attempts to subpoena journalists was made known in a petition for Supreme Court review that was filed today in the Caldwell case.

Erwin N. Griswold, the Solicitor General, asked the Court in the petition to overturn a ruling by the United States Court of Appeals for the Ninth Circuit, which broke new constitutional ground by extending the First Amendment's protection to the news-gathering process.

Mr. Caldwell, a black reporter, wrote a number of articles about the Black Panther party. When he was subpoenaed to testify in secret before a Federal grand jury in San Francisco that was looking into possible law violations by Black Panthers, he said his sources within the organization would be destroyed if he complied.

Although the trial judge held that Mr. Caldwell could not be required to testify as to confidential information unless the Government could show a compelling national interest in the testimony, the judge said that he would have to answer questions about information told him for publication by Black Panther leaders.

Mr. Caldwell balked at even entering the grand jury room, asserting that this appearance of cooperation with the prosecution would sever his confidences with the Black Panthers and would violate his First Amendment right to cover the news. He was found guilty of contempt of court, but the appeals court reversed the decision.

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