

Length of Hearing Depends on Defense

A hearing on a new trial plea for Jack Ruby could last more than a week.

Or it could start and end in one day.

The length will depend upon the strategy of defense lawyers and the patience of Judge Joe B. Brown.

When he withdrew Monday as chief defense lawyer, Percy Foreman of Houston told reporters:

"If I had remained in the case, the hearing would have lasted as long as the trial."

Ruby's trial, which ended with him being given a verdict of death in the electric chair for the murder of Lee Harvey Oswald, lasted a month. This includes the time attorneys spent choosing the eight men and four women who decided Ruby's fate.

First Assistant Dist. Atty A. D. Jim Bowie said, however, he sees no reason why the hearing should last more than three days "at the most."

Judge Brown will spend much of his time listening to attorneys cite rulings by the Court of Criminal Appeals and the U.S. Supreme Court in other cases.

Dist. Atty. Henry Wade will emphasize a Court of Criminal Appeals ruling in a Dallas County rape case.

Prosecutors say the appeals court upheld a conviction in that

case even though one juror said he was convinced before hearing evidence that the defendant had raped a woman.

The appeals court noted the defense admitted the attack, but claimed the suspect was insane. Since the juror said he had no opinion on this point, the court said, he was qualified to sit in judgment in the case.

Wade will point out that, even though jurors saw television scenes of Ruby shooting Oswald, they would shed no light on Ruby's sanity at the time. And the defense admitted Ruby fired the shot.

Joe Tonahill and Phil Burleson, who remained on the defense legal staff after Ruby fired Melvin Belli, will insist these jurors were "witnesses."

They will cite court rulings to back up their argument that the jurors were disqualified and, as a result, Ruby should have a new trial.

Prosecution and defense lawyers also will read from their law books while debating whether Judge Brown acted properly in refusing to transfer the case to another county.

The defense has the right to call witnesses to testify about

matters which took place outside the courtroom.

Foreman said he would have stressed that pickets stood outside the building with placards which attacked psychiatry as a defense in a criminal case.

"I feel this is certain to bring a new trial," the Houston lawyer said.

Bowie disagreed.

"They would have to show that jurors saw the placards and were influenced by what they saw," the prosecutor said.

By filing affidavits charging jury misconduct, defense lawyers could call jurors as witnesses and question them about how they arrived at their verdict.

Prosecutors could call witnesses to reply to the defense testimony, if Wade thought it necessary.

Judge Brown is expected to schedule the hearing late next month.

If he grants a new trial, Wade cannot appeal. But, if the judge refuses to grant a new trial, defense lawyers can go to the Court of Criminal Appeals and, if turned down there, into the federal courts.