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TOMORROW: *Cooler, cloudy.*

20 Cents

Criminal Counts Filed

Against Wecht

Arrest Due Today For Commissioner

By PAUL MARYNIAK

Six criminal counts were to be filed today against County Commissioner Cyril H. Wecht, charging him with using public facilities for private gain while he was coroner.

Chief City Magistrate Alan S. Penkower signed complaints filed by the district attorney's office and was expected to arraign Wecht later today after he surrendered to detectives with his attorney.

The charges are based on a lengthy grand jury probe that culminated last Sept. 4 with a recommendation that

Wecht be prosecuted for using morgue facilities and personnel to perform more than \$139,000 worth of tests for his private firm, Pittsburgh Pathology and Toxicology Laboratory Inc., of Oakland.

Wecht, 49, of 5420 Darlington Ave., Squirrel Hill, was expected to surrender to detectives from District Attorney Bob Colville's investigations unit. Detectives were then expected to escort the commissioner to the Public Safety Building, Downtown, where he would be photographed and fingerprinted before arraignment.

It was expected Wecht would be released on nominal bond after pleading innocent to charges which he said last week were part of a "political vendetta" by Colville.

The charges filed against Wecht, coroner from 1970 until he became a commissioner last January, carry a maximum penalty of 21 years imprisonment and \$47,500 in fines upon conviction.

The charges include the felony counts of theft of services and theft by failure to make required disposition of funds, and misdemeanor counts of misapplication of entrusted property, unsworn falsification to authorities and violation of the Clinical Laboratory Act. There were two counts of unsworn falsification.

Both felony counts and one of the misdemeanor charges apply to the tests themselves and the total value of coroner's office employees' wages and work time that were allegedly spent performing private work for Wecht.

Unsworn falsification counts involve charges that Wecht lied to government laboratory regulatory agencies in order to further the alleged scheme.

Wecht, who owned the Oakland firm until September 1978, remains on its payroll as a supervisor.

The alleged scheme occurred between January 1974 and February 1979, during which Wecht earned close to \$213,000 from the lab, and more than \$125,000 from the county as coroner, the grand jury said.

The alleged violation of the Clinical Laboratory Act stems from a charge that Wecht operated a clinical laboratory at the morgue without obtaining a permit from the state Health Department.

Although by law a defendant in a criminal case is entitled to a preliminary hearing within 10 days after an arrest,

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Colville said he expected Penkower would set a hearing date that would accommodate "all parties involved."

At a news conference today, Colville said the trial could be held within 100 days, but defense motions could delay it for up to two years.

Penkower was appointed by President Judge Michael J. O'Malley of Common Pleas Court to preside over the preliminary hearing after Common Pleas Judge Robert E. Dauer asked that an out-of-county judge be assigned to Wecht's case because all but one of the county's 13 criminal division judges have disqualified themselves.

Saying it was premature to ask the state Supreme Court to assign an out-of-county judge for the trial, O'Malley said he was appointing Penkower because the magistrate is paid by the city and not the county.

Besides disqualifying themselves because they are either personal friends or political allies of Wecht, criminal division judges also expressed concern about the commissioner's control over their budget. Dauer said the same reason should be used to disqualify county magistrates from the preliminary hearing.

The filing of charges, in effect, thwarted efforts by Wecht's lawyers to obtain a civil court injunction preventing his arrest pending a hearing on allegations that the district attorney's office leaked information related to the grand jury probe.

The allegations stem from a July 25 report in a Westmoreland County newspaper that predicted the grand jury would recommend Wecht's prosecution after the Democratic National Convention last month.

The article in the Greensburg Tribune-Review quoted a source who was "privy to the decisions of the district attorney."

Claiming the article swayed the grand jury and also violated secrecy provisions of the state grand jury law, Wecht is suing the newspaper, reporter William McCloskey, Colville and four of his aides for civil damages.

Even though Wecht, in an effort to prevent both the presentment and the arrest, lost his bid to have a hearing on the allegations, the charges are expected to be renewed at the commissioner's preliminary hearing.

And even if Wecht loses a bid to have the charges dismissed in a preliminary hearing, he is expected in pretrial mo-

tions to reactivate allegations of leaks.

The grand jury's findings were based on testimony from morgue personnel as well as extensive records subpoenaed from three hospitals and an unspecified number of private physicians who sent tissue samples to the private lab.

While the private lab allegedly never reimbursed the county for work performed at the morgue, the panel said the firm did pay between \$30 and \$100 a month to coroner's office employees who performed the tests.

Those payments supplemented the employees' county wages, which ranged from \$143 to \$190 per week in 1974, and which climbed to \$213 to \$290 per week by 1979, the presentment said.

Wecht also is accused of deceiving the director of the U. S. Center for Disease Control in Atlanta. Wecht allegedly claimed in October 1975 that his private firm owned a tissue-testing machine that was in good condition, even though the device belonged to the county and had been inoperative for several years.

He also is accused of telling a state Health Department official in 1976 that tissues were being processed at the private firm's Oakland lab, although it lacked equipment for such tests.

The grand jury probe began last August at a time when former county Controller John P. Lynch was investigating a variety of private money-making schemes at the coroner's office.

Lynch, who began his investigation after disclosures in The Press in January 1979, ultimately filed a surcharge demanding that Wecht repay more than \$390,000 to the county.

That amount includes the \$139,000 that is at issue in the criminal case, and also includes other funds that were diverted into the Professional Education Fund.

The fund was a depository for payments for out-of-county and priv. autopsies.

While questioning various payments from that fund, the grand jury made no determination on whether there was criminality involved, but did recommend tighter external controls on disbursements.

Common Pleas Judge Nicholas Papadakos reduced the surcharge earlier this year by more than two-thirds on a statute of limitations ruling.

County Controller Frank Lucchino has appealed that ruling to Commonwealth Court, thereby stalling further action in in Common Pleas Court on the surcharge.