

Graham Martin Won't Be Prosecuted

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The Justice Department yesterday announced that it will not prosecute Graham Martin, former U.S. ambassador to South Vietnam, for alleged mishandling of classified material.

A department spokesman said that Martin's age, 67, and deteriorating health were significant factors in deciding not to charge him with "gross negligence" for losing highly classified documents and then failing to report the loss.

The Washington Post reported last September that Martin was under investigation because top-secret intelligence documents were missing from the trunk of his car after it was stolen in December 1977.

The facts of the case did raise "serious questions of criminal liability" under the seldom-used statute dealing with the misuse of classified documents, the department statement said. But Martin has been in poor health after surgery, according to Justice officials, so the investigation was not pursued.

Martin who now lives in Winston-Salem, N.C., could not be reached for comment yesterday.

He served as ambassador in Saigon from mid-1973 to the American evacuation on April 30, 1975. Frank Snepp,

a former CIA officer who served in Vietnam and wrote a book highly critical of those final days, said he told authorities that Martin had taken classified documents with him during the evacuation.

"He told me he kept them so he could have the last word on [former secretary of state Henry A. Kissinger] Snepp said.

As an ambassador, Martin had lawful access to top-secret material. He told a Chicago newspaper in 1977 that he took exchanges of messages with Kissinger with him from Saigon. "They might make interesting reading," he said.

There was no evidence, though, that Martin planned to publish the classified material in his possession. Early last year he began making arrangements to turn over the materials to the LBJ Library in Texas. But that wasn't started until after the FBI had discovered that the documents were missing.

The stolen car and most of the missing documents were discovered, sources said, after a teacher found one of the classified papers in a student's hand and asked where the document came from. The material was said to include CIA cables that had bypassed the State Department's normal traffic network, but much of

it was of more historical than operational significance, officials said.

Martin's management of the U.S. embassy in Saigon at the end of the war has been criticized within the government as well as by outside critics like Snepp.

The decision to forgo prosecution was made by Robert L. Keuch, deputy assistant attorney general in the Criminal Division. Philip B. Heymann, head of the Criminal Division, did not take part in the case because he knew Martin slightly, an official said.