

The Investigation That Never Was

The mid-August spurt of presidential statements on Watergate has made unmistakably clear that the new investigation President Nixon said he ordered March 21 simply did not exist.

The closest to any such order was an offhand presidential request relayed March 28 by then presidential aide John D. Ehrlichman asking then Attorney General Richard Kleindienst to pass along information incriminating White House or campaign aides if it ever turned up.

This by no means implicates the President in the Watergate cover-up. But the non-investigation points up two disturbing elements: First, even when the walls were crumbling, the President made little effort to probe deeply into the scandal. Second, and more disturbing, his public claims of ordering an investigation when one really did not take place reflect the imprecision and inaccuracy of many presidential comments on Watergate. Weary though the President and many Americans are with Watergate, critics will continue to contrast such comments with reality.

In his April 17 statement, the President first declared he had "begun intensive new inquiries" once new charges were brought to his attention March 21—presumably when then White House counsel John W. Dean III

told the President there was a cancer on the presidency. In his April 30 televised address, the President declared that on March 21 he "personally ordered all those conducting the investigations to get all the facts and to report them directly to me."

Nobody challenged these statements until the Senate Watergate hearings when Sen. Lowell Weicker of Connecticut asked Justice Department officials whether they had received any such request. The answer from Kleindienst, Assistant Attorney General Henry Petersen and former FBI Acting Director L. Patrick Gray was unanimous: no.

But in his Aug. 15 supplementary statement, Mr. Nixon reiterated that he "immediately began new inquiries" after March 21. Pressed for details at his Aug. 22 news conference, Mr. Nixon asserted he "had a contact made with the Attorney General (Kleindienst) himself and . . . told him—this was on the 27th of March—to report to me directly anything he found in this particular area."

Did this refute Kleindienst's sworn testimony that the President did not contact him? No. According to authoritative White House sources, Mr. Nixon's contact was indirect: a March 28 telephone call by Ehrlichman. Moreover, thanks to Ehrlichman's egregious habit of surreptitiously recording his

own telephone conversations, the off-hand quality of that request is indisputable.

Ehrlichman spent the first several minutes urging Kleindienst to attack Weicker; Kleindienst refused. Then, in by-the-way fashion, Ehrlichman said the President had told him to report he had no information that anybody in the White House had any prior knowledge of this burglary. He said that he's counting on you to provide him with any information to the contrary if it ever turns up and you just contact him direct." The same, Ehrlichman continued, applies to campaign committee staffers. There was no reference whatever to disturbing new information supplied the President March 21.

With good reason, Kleindienst did not interpret Ehrlichman's call as containing presidential urgency, much less calling for an intensive new investigation.

Two days after this conversation, President Nixon has said, he ordered Ehrlichman "to conduct an independent inquiry" without informing the Justice Department. Ehrlichman has testified his interviews of a half-dozen people constituted no "investigation."

According to the President, Ehrlichman gave him the inquiry's results April 14 and he was instructed to pass

them to Kleindienst. In a brief telephone conversation that night, according to Kleindienst's sworn testimony, Ehrlichman told him he had been "investigating" Watergate but gave no details. Shocked, Kleindienst replied he should turn over any information to the Justice Department to avoid obstruction of justice charges. Ehrlichman answered, according to Kleindienst, that "it really doesn't make any difference anymore" because ex-campaign aide Jeb Magruder was talking to federal prosecutors anyway. That was the end of the conversation. That same night saw the now famous post-midnight briefing of Kleindienst by prosecutors.

The April 14 Ehrlichman-Kleindienst conversation was also surreptitiously recorded, but the tape was not submitted to the Senate committee and is believed in the White House files. It might provide further evidence of the strange non-communication between the President and the government's investigators as the scandal broke last spring.

Presidential aides and some Republican politicians claim the public is past caring about such details. But so long as Mr. Nixon persists in talking about investigations that were never made and reports never delivered, questions will be asked and suspicions nurtured.