

Nixon Aide Suggested Prosecution Of Complainer on Security Cases

11/21/73
By Norman Kempster
Los Angeles Times

The Nixon White House recommended criminal prosecution be considered in 1973 of a Pentagon investigator who had complained about government handling of security cases and hinted he might go to work for Sen. Henry M. Jackson (D-Wash.), documents released Friday showed.

The Justice Department ultimately refused to file charges but then-Attorney General Elliot L. Richardson suggested that Defense Department superiors "keep an eye" on the investigator, W. Donald Stewart, then inspector general of the Defense Investigative Service.

The documents provide further evidence that in the summer of 1973, a year before Richard M. Nixon resigned from the presidency, the White House was so nervous that it was ready to assume the worst about almost any situation.

In a letter marked "eyes only" to Richardson, then-White House counsel Leonard Garment said Stewart had threatened to disclose details of some of his Pentagon investigations — including one which also involved the White House "Plumbers" — if he was not appointed deputy FBI director.

"It is our recommendation that this matter be investigated in an effort to determine if there has been a viola-

tion of the criminal statutes with a view toward prosecution," Garment wrote on June 29, 1973.

The case was studied by several Justice Department attorneys, each of whom concluded that Stewart had broken no law. Nevertheless, Richardson indicated by a hand-written note in the margin of the final memo in the file that he would urge then-Deputy Defense Secretary William Clements to watch Stewart to make sure he did not do anything to damage the administration.

The White House apparently was concerned that Stewart might publicly disclose information about the security investigations he had conducted, including what came to be known as "The Pentagon Spy Case" of a Navy

yeoman who was passing secrets from the National Security Council to the chairman of the Joint Chiefs of Staff.

That eventually surfaced in January, 1974. But it was one of the administration's most sensitive secrets in 1973.

In seeking White House help in obtaining the FBI appointment, Stewart said he was dissatisfied with his Pentagon post because there had been no prosecutions in the Pentagon spy case or in several other cases involving illegal disclosure of classified information. He told two White House aides he had been "sounded out" about a possible job on Jackson's staff.

As it turned out, Stewart stayed at the Pentagon until he retired June 27, 1975.

Apparently it was the reference to Jackson that alarmed the Nixon White House. However, in the correspondence which resulted in Garment's recommendation of possible prosecution, Stewart did not threaten to disclose secrets to Jackson or anyone else.

The documents, released to Stewart

29 months after he requested them under the Freedom of Information Act, showed that Justice Department lawyers did not share the White House view that equated possible embarrassment to the administration with criminality.

Alfred L. Hantman, deputy chief of the department's general crimes section, said Garment's request for prosecution was "foolish."

Hantman said Garment seemed to be asking for prosecution of someone just for seeking a new job "because he does not like 'what is going on' in his own department or agency or he suspects some co-workers of possible administrative and-or criminal misconduct."

"When considered in a reasonable context, to merely articulate such a proposition is to realize its foolishness," Hantman wrote in a memo that eventually reached the Attorney General's office.

Although the documents do not show it, the White House may have been especially concerned about the possibility that Stewart might "go public" with information about the Pentagon spy case.