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## Conspiracy Case Judge Withdraws

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U.S. District Judge Gerhard A. Gesell, who Thursday angrily criticized the prosecution's handling of conspiracy charges against eight metropolitan police officers, withdrew from the case yesterday at the request of the U.S. attorney's office.

Before withdrawing, Gesell clarified a ruling he had made late Thursday, explaining that all charges against four of the defendants were dismissed. The prosecution said it would appeal Gesell's ruling.

Gesell's decision to withdraw at the prosecution's request, which the judge said was his first since he was appointed to the bench in 1968, came at the end of another tense hearing in which he and the prosecution stated its recollections of the events that led to Gesell's criticism Thursday.

The eight officers, two of whom have resigned from the force, were charged with conspiring to make false arrests, involving false statements and perjured testimony, in order to collect compensatory and paid court overtime. The alleged ringleader was Lt. Harold F. Crook, former head of the third police district vice squad.

The prosecution Wednesday asked Gesell to dismiss both a conspiracy and a perjury charge against Crook because of cooperation he had given the U.S. attorney's office with

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# Judge Quits Police Conspiracy Case

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an investigation said to be unrelated to the trial of the eight officers.

Gesell refused to dismiss the perjury charge against Crook on Thursday, stating that the request was a "travesty" of justice growing out of "distasteful" bargains that would allow Crook to go "scot free" while the other officers still would have to stand trial.

Instead, Gesell dismissed the conspiracy charges against all eight officers—explaining yesterday that his action also dismissed charges of making false statements against four of the defendants—and ordered the four others charged with perjury to stand trial.

The effect of Gesell's ruling was to leave perjury charges outstanding against Crook, Frank D. Tucci, Charles D. Mundy and Robert L. Douglas. Charges of conspiracy and making false statements were dismissed against Rocco Cianciotti Jr., William E. Goulart, Finish H. McGraw and Ronald S. Taylor.

During yesterday's hearing, Assistant U.S. Attorney Robert A. Shuker gave his account of three meetings that he said took place in July with Gesell about Crook's cooperation with another investigation.

Shuker said that Gesell was

told that the investigation would go beyond the then-scheduled Sept. 11 trial date but that charges against Crook would be dismissed if he cooperated in the other investigation.

At the same time, Shuker said, "We also informed Your Honor that we were convinced that if the charges were dismissed against him (Crook) before his cooperation activities had been completed, it would abort that investigation and might jeopardize the defendant's (Crook's) safety."

As a result, Shuker said the trial had to be continued. Shuker said Gesell agreed that the trial had to be delayed. Shuker said that he also told Gesell that since Crook would probably not be tried, a new indictment would be needed. Crook, originally indicted with the other seven, was reindicted separately on Sept. 8.

"In sum," Shuker concluded, "it is my memory that we were completely candid with Your Honor."

"The court's recollection is quite different," Gesell responded. "I recall only one meeting, but it makes no difference whether it was one or three." At that meeting, Gesell said he was told that "no one knew whether Lt. Crook was

or was not going to cooperate" or whether his information would be useful.

Gesell said he recognized and told prosecution lawyers that they had a problem about delaying the trial—"how you were going to achieve it and that you would probably have to promptly disclose the cooperation of this Mr. Crook."

"You came before me and you did not do that," Gesell said. "You came before me (in July) and you represented before me that you could not prove the indictment and that you wanted a new indictment."

Gesell said it had "never" been discussed with him "whether Mr. Crook was or was not cooperating." When the new indictment was re-

turned in September, Gesell said that appeared to him "a clear indication" that Crook and the other seven would be prosecuted.

Gesell repeated "that I believe the United States attorney has improperly maneuvered and the United States attorney has improperly represented the situation in open court to this court and to the other defendants and it was for that reason that I took the action I did."

Shuker then asked Gesell to delay the trial, to "clear the air" of hostility. Gesell said he had no hostility, but asked Shuker if he wanted Gesell to withdraw. Shuker avoided the question initially but then later asked Gesell to do so.

Gesell said he did not think he was "prejudiced or biased"