

# White House theory on disputed tapes

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WASHINGTON — After 10 days of hearings in the celebrated case of the "missing" Watergate tapes, White House lawyers have provided a theory for why two disputed conversations may not have been taped.

They told Judge John Sirica that one six-hour tape "ran out" before recording a crucial presidential conversation with John Dean — and no one thought to check to see if it was on hand, even after the tape was subpoenaed in July.

They say the other conversation, a telephone chat between the President and former Attorney General John Mitchell, was not recorded because the President used a phone that was not hooked in to the recording system.

But they have not come up with convincing proof or documentary evidence in Sirica's courtroom.

There is no record at all, so far, from any witness, to show that the tapes could not have been tampered with, or mutilated, either deliberately or by accident.

There is no court record so far to show that some of them, even many of them, could not have been thrown away or destroyed.

The major thrust of courtroom testimony so far has been to show that the tapes were controlled only loosely.

For all practical purposes, tapes were completely out of control for days at a time on more than one occasion, with no records kept. No one has come forward to say who had them in these periods, or what they did with them.

President Nixon, for example, asked for twenty six tapes on June 4 — before the public knew that there was

an elaborate White House tape recording system in presidential offices and on phones.

Records submitted in the courtroom, compiled by the Secret Service, show that the tapes were checked out.

There is no record that they were ever checked in.

But an even more striking example involves the first major withdrawal of White House tapes by a high official.

H. R. Haldeman, who resigned under fire as White House chief of staff on April 30, was given 22 tapes on April 26, according to Secret Service records.

Haldeman testified under oath that he was sure he returned them the same day.

But Secret Service records say that the twenty two tapes were not turned in until the following Wednesday, six days later.

As far as testimony in court is concerned, no one knows where those tapes were for those six days — and what might have been done with them.

More importantly, three of the tapes that were missing for this six day period in April — checked out to Haldeman — are among the most crucial tapes in the Watergate affair.

They are three of the nine Watergate tapes subpoenaed by ousted Special Prosecutor Archibald Cox last July, bringing the Watergate crisis to a Constitutional boil.

There are other curious aspects to testimony involving Haldeman's access to tapes.

In July, for example, long after he had left the White House staff, but before he testified before the Senate Watergate committee, Haldeman was permitted to check out a total of nine tapes.

One of those he was given was for April 15 this year — the tape now described by the White House lawyers as "the tape that ran out."

This is one of the so-called "missing" tapes, a tape that the White House says does not exist.

Oddly, there are no original Secret Service records to prove that Haldeman ever returned this tape.

A Secret Service "log" notebook prepared in July, after the public learned of the existence of the White House recording system, lists what tape as having been returned.

But the original records from which this notebook was prepared do not show that it was.

Testimony in the courtroom has challenged the basic record keeping system for the tapes both before and

after existence of the system became known.

Before the taping system was known, Secret Service technicians kept records on scraps of paper, sometimes on pieces torn from shopping bags.

When the tapes became known they were turned over to the care of a former major general in the Army — who also kept his records on scraps of paper, in long-hand.

His records are crude jottings that only he can understand and interpret. He has testified he kept them "for himself."

What testimony has shown is that the keepers of the tapes — whether the general or the Secret Service — were simply low-level White House employes who handed out tapes to any one of several representatives of the President who showed up with a request.

While tapes were checked out no records at all were kept on where they were, who had them, or what anybody might be doing with them or to them.

The White House announced officially in late July that the tapes were in the "personal custody" of the President.

The court record shows that at least four other persons have heard tapes — Haldeman, White House lawyer J. Fred Buzhardt, White House aide Stephen Bull, and the President's personal secretary, Rose Mary Woods.

Tapes were sometimes kept in desk drawers overnight, or sitting in briefcases in closets, witnesses have said.

They have been played in such places as the White House itself, the executive office building, Camp David, Key Biscayne, Fla., and in H.R. Haldeman's former home in Georgetown.

Testimony has indicated that no special precautions have been made to preserve the original tapes from mutilation or erasure — precautions most police departments would routinely take.

Rose Mary Woods worked for a month attempting to make transcripts of the subpoenaed Watergate tapes, as well as some others. She worked with the originals, stopping and starting the recording machine.

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